

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

PULLEN SEEDS AND SOIL, on behalf
of itself and all others similarly situated,

Plaintiff,

v.

MONSANTO COMPANY,

Defendant.

C.A. No. 06-599-SLR

WADE FARMS, WHITTINGTON & SUMNER
FARMS, CLIFFORD F. DANCE, D/B/A
CLIFFORD DANCE FARMS, and all others
similarly situated,

Plaintiffs,

v.

MONSANTO COMPANY,

Defendant.

C.A. No. 06-600-SLR

**MEMORANDUM IN SUPPORT OF DEFENDANT MONSANTO
COMPANY'S MOTIONS TO DISMISS**

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NATURE AND STAGE OF THE PROCEEDINGS

On September 26, 2006, Plaintiff Pullen Seeds and Soil filed a putative class action (C.A. No. 06-599-SLR) against Defendant Monsanto Company. On the same day, Plaintiffs Wade Farms, Whittington & Sumner Farms, and Clifford F. Dance Farms filed a virtually identical action (C.A. No. 06-600-SLR) against Monsanto. Defendant Monsanto moves to dismiss the Complaints in both cases pursuant to Fed. R. Civ. P. 12(b)(6). Because the Complaints in the two cases are nearly identical and are subject to dismissal on the same ground, this Memorandum, for the convenience of the Court, addresses the motions filed in both cases.

SUMMARY OF THE ARGUMENT

1. Plaintiffs brought these antitrust cases in the wrong forum. Plaintiffs are “licensed growers” of genetically modified corn, soybean, and other seed containing genetic traits patented by Monsanto. (Pullen Compl. ¶ 16; Wade Compl. ¶¶ 16-18). Plaintiffs entered into license agreements with Monsanto to grow seed containing Monsanto’s seed trait technologies. The Complaints assert that Monsanto wielded its purported control over its patented seed traits – and used the very patent licenses executed by Plaintiffs – to restrain trade and monopolize the market for glyphosate, the generic name of Monsanto’s “Roundup” herbicide. Plaintiffs claim that the licenses improperly required them and other putative class members to purchase Monsanto’s glyphosate herbicides in order to use Monsanto’s seed traits. Plaintiffs characterize the seed trait license agreements as “unlawful,” “exclusionary,” and “anticompetitive.” (Pullen Compl. ¶ 92; Wade Compl. ¶ 94). But those same agreements, which bind Plaintiffs as licensees, designate courts in St. Louis as “the sole and exclusive jurisdiction

and venue” for “*all* claims and disputes *arising out of or connected in any way with this agreement* and the use of the seed or the Monsanto technologies.” Unlike the forum selection clause in Monsanto’s license agreements with some seed companies, which this Court found in *American Seed v. Monsanto*, C.A. No. 05-535-SLR to be permissive, this provision is mandatory. It says unequivocally that, “*Any* lawsuit *must* be filed in St. Louis, Mo.” By contrast, the provision at issue in *American Seed* merely stated that disputes “*may* be heard and determined in” Missouri.

To be sure, Plaintiffs’ implausible claims should not proceed in any forum, as it is a matter of public record that the price of glyphosate has plummeted, conclusively rebutting allegations of monopolization. But that issue is for a later day. The question of where the cases will be litigated should be resolved at the outset.¹

2. Federal courts in antitrust putative class actions repeatedly have enforced the forum selection clause contained in the patent license agreement at issue here. *See, e.g., Blades v. Monsanto Co.*, No. 00-CV-4034-DHR, 2001 WL 775980, at *3-4 (S.D. Ill. Jan. 3, 2001); *Massey v. Monsanto Co.*, No. 299-CV-218-P-B, 2000 WL 1146705, at *2 (N.D. Miss. June 13, 2000). In this Circuit, breach of a forum selection clause is grounds for dismissal. *Salovaara v. Jackson Nat’l Life Ins.*, 246 F.3d 289, 298 (3d Cir. 2001). The Court therefore should dismiss the Complaints, without prejudice to Plaintiffs re-filing them in St. Louis, Missouri, where over a dozen cases containing allegations similar to those here currently are pending.

¹ *See Palcko v. Airborne Express, Inc.*, 372 F.3d 588, 597-98 (3d Cir. 2004) (defendant that moved to dismiss concerning threshold forum issues did not waive right to later bring motion to dismiss for failure to state a claim based on arbitration or other grounds that are not expressly waived under Fed. R. Civ. P. 12(h)(1)).

STATEMENT OF FACTS

A. Plaintiffs' Complaints

In September 2006, Plaintiff Pullen Seeds and Soil, an Iowa company that grows genetically modified seed in Iowa (Pullen Compl. ¶ 16), filed its Complaint against Monsanto Company. On the same day, Plaintiffs Wade Farms, Whittington & Sumner Farms, and Clifford F. Dance Farms – all Mississippi businesses that grow genetically modified seed in Mississippi – filed a virtually identical Complaint against Monsanto. (Wade Compl. ¶¶ 16-18). Plaintiffs do not claim to have any relationship with this forum.

Monsanto is a Delaware corporation headquartered in St. Louis, Missouri. (Pullen Compl. ¶ 17; Wade Compl. ¶ 19). Monsanto manufactures Roundup brand herbicides. (Pullen Compl. ¶¶ 1, 37; Wade Compl. ¶¶ 1, 39). It also holds patents for genetic seed traits, and it licenses seed companies to include those traits in corn, soybean, and other seed. (Pullen Compl. ¶¶ 1, 43-46; Wade Compl. ¶ 1, 45-48).

Plaintiffs claim that Monsanto violated federal and state antitrust laws “by using its monopoly power in various biotechnology seed trait markets to unlawfully monopolize and restrain competition in the market for glyphosate herbicides.” (Pullen Compl. ¶ 2; Wade Compl. ¶ 2). The Complaints focus on Monsanto’s patented seed traits that make crops resistant to glyphosate-based herbicides, such as Roundup. Specifically, Plaintiffs allege that Monsanto improperly used the “seed trait monopolies” its patents conferred, to keep other companies from developing their own new seed traits providing resistance to non-glyphosate-based herbicides. (*E.g.*, Pullen Compl. ¶¶ 6, 58-60, 80; Wade Compl. ¶¶ 6, 60-62, 82). Because other companies did not develop such new traits, Plaintiffs allegedly “paid non-competitive and artificially inflated prices” for

Roundup. (Pullen Compl. ¶¶ 1-2; Wade Compl. ¶¶ 1-2). In short, Plaintiffs allege that Monsanto's conduct regarding seed traits affected the price of herbicides.

Based on this theory, Plaintiffs seek only declaratory and injunctive relief under federal antitrust laws for nationwide classes of direct and indirect purchasers of Roundup herbicides. (Pullen Compl. ¶ 20; Wade Compl. ¶ 22). Disregarding a clear conflict of interest, Plaintiffs also seek *damages* under state laws for a small subset of these federal injunction putative classes, indirect purchasers of Roundup in Iowa (Pullen Compl. ¶ 27) and Mississippi (Wade Compl. ¶ 29).

B. Plaintiffs Assert That Their Alleged Injuries Resulted In Part From Their Allegedly Anticompetitive Agreements With Monsanto

Plaintiffs' theory rests on the allegation that Monsanto suppressed competition in genetically modified traits. (Pullen Compl. ¶¶ 1-2; Wade Compl. ¶¶ 1-2). Monsanto has been litigating that issue for several years in more than a dozen cases now pending before a federal court in St. Louis. *See Schoenbaum et al. v. E.I. DuPont de Nemours and Co. et al.*, No. 4:05-CV-01108-ERW (E.D. Mo.) (13 cases filed in 2004, transferred to Missouri in 2005 and consolidated); *McIntosh v. Monsanto Co.*, No. 4:01-CV-0065 (E.D. Mo.) (consolidated cases filed 1999 and 2000, transferred to Missouri in 2001). Indeed, it appears that Plaintiffs drew on those complaints.²

As in the pending St. Louis federal actions, Plaintiffs allege that Monsanto used its patent license agreements with farmers ("Technology Agreements") to further the purported scheme to monopolize. (*See* Pullen Compl. ¶¶ 8, 82-92; Wade Compl. ¶¶ 8, 84-94). Specifically, according to Plaintiffs, "Monsanto has . . . imposed exclusionary

² The chart attached as Ex. A highlights the striking parallels between the complaints in the Missouri cases and those filed here.

and restrictive conditions at the grower level that prevent growers from using generic glyphosate in connection with Monsanto's glyphosate tolerant seed traits." (Pullen Compl. ¶ 86; Wade Compl. ¶ 88). In particular, Plaintiffs allege, "Monsanto requires growers to sign a technology license . . . that effectively mandates that they use only Roundup herbicides" on seeds containing Monsanto's patented traits. (Pullen Compl. ¶ 86; Wade Compl. ¶ 88). Plaintiffs allege that Technology Agreements from 1998 to 2000 improperly "conditioned the grant of a license to use its Roundup Ready seed technology on the grower's agreement to purchase and use only Monsanto's Roundup herbicide." (Pullen Compl. ¶ 86; Wade Compl. ¶ 88).

Further, Plaintiffs claim, "[w]hile the language in Monsanto's more recent [Technology Agreements] appear[s] to permit a grower to use a non-Roundup glyphosate herbicide in connection with Monsanto's glyphosate-tolerant seed traits, other aspects of the Grower's Agreement demonstrate that this 'choice' is illusory and that a grower is still effectively locked into using Roundup virtually exclusively." (Pullen Compl. ¶ 87; Wade Compl. ¶ 89). Indeed, Plaintiffs attack the Agreement twice on this ground, alleging that "Monsanto has effectively maintained the same condition in its technology license that requires a grower using Monsanto's biotechnology seed traits to use Roundup virtually exclusively rather than a cheaper generic glyphosate herbicide." (Pullen Compl. ¶ 90; Wade Compl. ¶ 92). Plaintiffs assert in addition that an "inherent component of the Tech Fee" payable under the Agreement resulted in overcharges for Roundup. (Pullen Compl. ¶ 88; Wade Compl. ¶ 90). In sum, Plaintiffs claim that Monsanto's "anticompetitive conduct including its exclusionary licensing agreements with . . .

growers . . . has unlawfully restrained trade and maintained its monopoly in the market for glyphosate herbicides.” (Pullen Compl. ¶ 92; Wade Compl. ¶ 94).

**C. Plaintiffs’ Technology Agreements With Monsanto
Required These Actions to Be Filed in a St. Louis Court**

As licensees under the Technology Agreement, Plaintiffs were obligated to bring these claims in St. Louis. The applicable Agreements provide:

THE PARTIES CONSENT TO THE SOLE AND EXCLUSIVE JURISDICTION AND VENUE OF THE U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF MISSOURI, EASTERN DIVISION, AND THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS, MISSOURI, (ANY LAWSUIT MUST BE FILED IN ST. LOUIS, MO) FOR ALL CLAIMS AND DISPUTES ARISING OUT OF OR CONNECTED IN ANY WAY WITH THIS AGREEMENT AND THE USE OF THE SEED OR THE MONSANTO TECHNOLOGIES EXCEPT FOR COTTON-RELATED CLAIMS MADE BY THE GROWER.

(See Ex. B, 2006 Technology Agreement at 2; Ex. C (sample Technology Agreements used since 1998); Ex. D (signature page to agreements signed by Plaintiffs)).³ Given that Plaintiffs expressly attack the Technology Agreement, these cases arise out of and are connected with the Agreements under attack, as well as with Plaintiffs’ use of genetically modified seed and Monsanto’s technologies. Plaintiffs thus were contractually bound to file these cases in St. Louis.

³ Monsanto uses a new Technology Agreement for each crop year and the forum clause language changed in non-material ways over time. The United States District Court for the Eastern District of Missouri held that, because the Agreements provide that they remain in effect until terminated and that continuing use of Monsanto’s technologies after new terms are issued constitutes an agreement to be bound by the new terms, the forum clause in the most recent Technology Agreement applies. *Monsanto v. Baumgardner*, No. 4:04-CV-00708 ERW, Mem. and Order at 9 n.10 (E.D. Mo. Mar. 29, 2005) (Ex. E). Accordingly, the forum clause in the 2006 Technology Agreement is applicable here. In any event, the question of which version of the Agreement applies is of no consequence, because the Complaints must be dismissed under any iteration.

STANDARD FOR MOTION TO DISMISS

The Court of Appeals for the Third Circuit has held that, “a 12(b)(6) dismissal is a permissible means of enforcing a forum selection clause.” *Salovaara v. Jackson Nat’l Life Ins. Co.*, 246 F.3d 289, 298 (3d Cir. 2001) (affirming dismissal of action based on forum clause requiring a state or federal court in another forum); *Crescent Int’l Inc. v. Avatar Cmtys., Inc.*, 857 F.2d 943, 944-45 (3d Cir. 1988) (similar).⁴

Although a court considering a motion under Fed. R. Civ. P. 12(b)(6) focuses on the pleadings, it can properly review contracts or other documents referenced in the complaint. *See Pryor v. Nat’l Collegiate Athletic Ass’n*, 288 F.3d 548, 560 (3d Cir. 2002); *Chambers v. Time Warner, Inc.*, 282 F.3d 147, 153 (2d Cir. 2002). A court also can take judicial notice and consider matters such as pleadings in other cases, *see Southmark Prime Puls, LP v. Falzone*, 776 F. Supp. 888, 892 (D. Del. 1991); *Green v. Warden, U.S. Penitentiary*, 699 F.2d 364, 369 (7th Cir. 1983), and official government records. *See Buck v. Hampton Twp. Sch. Dist.*, 452 F.3d 256, 260 (3d Cir. 2006).

⁴ A court also has power, on its own motion, to transfer a case to another federal forum should it determine that transfer, rather than dismissal, is the appropriate course. *Salovaara*, 246 F.3d at 299.

ARGUMENT**THIS COURT SHOULD DISMISS THE COMPLAINTS BECAUSE PLAINTIFFS AGREED TO BRING THESE ACTIONS IN A ST. LOUIS COURT****A. The Forum Selection Clause is Valid, Binding, and Enforceable**

Forum selection clauses are “presumptively valid” and enforceable unless enforcement would be unreasonable under the circumstances. *E.g., Coastal Steel Corp. v. Tilghman Wheelabrator Ltd.*, 709 F.2d 190, 202 (3d Cir. 1983), *abrogated on other grounds, Lauro Lines v. Chasser S R L.*, 490 U.S. 495 (1989); *accord M/S Bremen v. Zapata Off-Shore Co.*, 407 U.S. 1, 10 (1972); *Stewart Org., Inc. v. Ricoh Corp.*, 487 U.S. 22 (1988); *Bbdova, LLC v. Auto. Techs., Inc.*, 358 F. Supp. 2d 387, 390 (D. Del. 2005). To overcome the presumption, a party challenging enforcement of a forum clause must show “(1) that it is the result of fraud or overreaching, (2) that enforcement would violate a strong public policy of the forum, or (3) that enforcement would in the particular circumstances of the case result in litigation in a jurisdiction so seriously inconvenient as to be unreasonable.” *Coastal Steel*, 709 F.2d at 202; *accord Bbdova*, 358 F. Supp. 2d at 390.

Plaintiffs can make none of these showings. *First*, nowhere do Plaintiffs allege that they entered into the Technology Agreements as the result of fraud, undue influence, or duress. Nor could Plaintiffs make such allegations. Courts repeatedly have found the Technology Agreement’s forum selection clause, a standardized agreement, valid and enforceable.⁵ For example, in *Blades v. Monsanto* (now docketed and pending in St.

⁵ *See, e.g., Blades Co. v. Monsanto*, No. 00-CV-4034-DHR, 2001 WL 775980, at *3 (S.D. Ill. Jan. 3, 2001) (rejecting argument in antitrust case that Technology Agreement and forum clause were contracts of adhesion or the result of fraud); *Massey v. Monsanto Co.*, No. 299-CV-218-P-B, 2000 WL 1146705, at *2 (N.D. Miss. June 13, 2000) (rejecting argument in antitrust case that forum selection clause in Technology

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Louis as *McIntosh v. Monsanto*), the complaint alleged “that Monsanto Company committed antitrust violations and violations of other laws in the pricing, selling, marketing and promotion of the GM corn and soybean seeds.” 2001 WL 775980, at *1. The complaint also alleged, as the Complaints here, that the Technology Agreements improperly required “a farmer who buys Roundup Ready seeds [to] purchase Roundup [herbicide] from Monsanto at whatever price Monsanto decides to charge.” *See Blades v. Monsanto Co.*, No. 00-CV-4034, Orig. Compl. ¶ 79 (S.D. Ill. Feb. 14, 2000) (Ex. F). The court held that the forum clause was not an adhesion contract and found nothing to “establish as a matter of law that the forum selection clause is unconscionable.” 2001 WL 775980, at *3. The court therefore enforced the clause by transferring that case and a related action to St. Louis federal court:

Having found the forum selection clause in the Technology Agreements entered into by Peterson valid, the Court concludes that venue in this judicial district is not proper, but instead lies within the United States District Court for

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Agreement was the result of “fraud, undue influence, or an overwhelming bargaining power.”); *see also McNair v. Monsanto Co.*, 279 F. Supp. 2d 1290, 1302 (M.D. Ga. 2003) (no showing in tort and contract case of “a disparity in bargaining power such that it would be unjust or unreasonable to enforce the forum selection clause.”); *Monsanto Co. v. McFarling*, 302 F.3d 1291 (Fed. Cir. 2002) (upholding finding in patent infringement and breach of contract case that Technology Agreement was valid and enforceable); *Monsanto Co. v. Swann*, No. 4:00-CV-1481 CEJ, 2001 WL 34053250 (E.D. Mo. Sept. 25, 2001) (“The Court has been called upon to consider this clause on several prior occasions, and has consistently found that it is both valid and enforceable.”); *Monsanto Co. v. Nelson*, No. 4:00-CV-1636 CEJ, 2001 WL 34079479, at *1 (E.D. Mo. Sept. 10, 2001) (finding in patent infringement and breach of contract case that “forum selection clause is neither unjust, unreasonable, nor invalid”); *Monsanto Co. v. White*, No. 4:00-CV-1761 RWS, 2001 WL 34053249, at *4 (E.D. Mo. June 22, 2001) (upholding forum selection clause in patent infringement and breach of contract case and noting that commercial farmer “cannot now ignore the law or the parties’ agreement”); *Monsanto Co. v. Dawson*, No. 4:98-CV-02004 TCM, 2000 WL 33952259, at *2 (E.D. Mo. Aug. 18, 2000) (finding in patent infringement and breach of contract case that forum clause “is neither unjust, unreasonable, nor invalid.”); *Monsanto Co. v. Godfredson*, No. 4:99-CV-1691 CDP, 2000 WL 33952257 (E.D. Mo. April 13, 2000) (upholding forum selection clause in patent infringement and breach of contract case).

the Eastern District of Missouri. Specifically, the Technology Agreement exclusively provides for both venue and jurisdiction in the Eastern District of Missouri, Eastern Division. In the case at bar, the parties freely negotiated the contractually chosen forum. Plaintiffs have not shown any fraud or overreaching by Monsanto in the Technology Agreement between Peterson and Monsanto. Therefore, Plaintiffs should not be allowed to bypass the contractual agreement now by bringing suit in the wrong court.

Id. at *4. Here, too, Plaintiffs cannot meet their heavy burden of showing the clause is unreasonable and should not be allowed to shirk their contractual obligations by bringing suit outside St. Louis.

Second, enforcement of the forum selection clause in this case violates no strong public policy of Delaware. On the contrary, dismissing these cases provide Plaintiffs the opportunity to refile in the United States District Court for the Eastern District of Missouri, where the Court already is considering allegations by members of the putative classes here that parallel, overlap, and potentially conflict with Plaintiffs' allegations. Thus, dismissing the cases under the forum selection clause here would promote judicial economy. *See Firmani v. Clarke*, 325 F. Supp. 689, 693 (D. Del. 1971) ("A strong public policy favors bringing all such litigation together in one tribunal so that pretrial discovery may be conducted more efficiently, witnesses' time may be conserved, public and parties' litigation expenses may be reduced, and inconsistent results can be avoided."); *United States Fid. & Guar. Co. v. Am. Home Assurance*, No. 98 CIV 3099 JGK, 2001 WL 300735, at *17 (S.D.N.Y. Mar. 27, 2001) ("In this case, given that the parties involved in the cross-claims are, for the most part, Brazilian entities, litigation is already being pursued by IVI and Sade in Brazil, and the will of the parties to the various contracts is carried out to the greatest extent possible by having the IVI Group litigate

their claims against Petrobras in Brazil, the IVI Group has not overcome the presumptive validity of the forum selection clauses”).

To be sure, as the Court is aware, *American Seed Co. v. Monsanto Co.*, C.A. No. 05-535-SLR, which is pending in this District, involves claims by direct purchaser-seed companies that Monsanto monopolized markets for genetically modified corn. The case also includes claims by intervenors who are growers of genetically modified corn in Minnesota and Iowa. However, the Missouri cases, like these cases and unlike *American Seed*, principally involve plaintiffs who are growers. Further, the Missouri cases, like these cases and unlike *American Seed*, include claims concerning crops other than corn. Thus, dismissal here advances not only the policy in favor of enforcing contractual commitments, but also the interests of judicial economy.

Third, litigating in St. Louis will not be “so gravely difficult and inconvenient that [Plaintiffs] will for all practical purposes be deprived of [their] day in court.” *Bbdova*, 358 F. Supp. 2d at 390. Missouri in fact appears more convenient for Plaintiffs than this Court, and is far more convenient for Monsanto. Plaintiffs are Iowa and Mississippi businesses. They grow crops in Iowa and Mississippi. And they purport to represent classes of Iowa and Mississippi residents on claims under Iowa and Mississippi law. Plaintiffs’ only apparent connection to Delaware is that one of the eight law firms representing them is in Wilmington. (Pullen Compl. pp. 40-41; Wade Compl. pp. 41-42). By comparison, Monsanto is headquartered in St. Louis (Pullen Compl. ¶ 17; Wade Compl. ¶ 19). Its executives therefore are in St. Louis, as are corporate records. Moreover, by entering into the Technology Agreement, Plaintiffs acknowledged that Missouri is a reasonable forum – in fact, the exclusive forum – for these actions. *See*

Jumara v. State Farm Ins. Co., 55 F.3d 873, 880 (3d Cir. 1995) (“a forum selection clause is treated as a manifestation of the parties’ preferences as to a convenient forum”).

B. Plaintiffs’ Disputes With Monsanto Arise Out of and Are Connected With the Technology Agreement

The forum selection clause here is broad and provides that “all claims *and disputes* arising out of *or connected in any way with* this agreement and the use of the seed or the Monsanto technologies” must be filed in St. Louis. (See Ex. B (emphasis added)). The Third Circuit has held that forum selection clauses covering “disputes,” as this one does, have a much broader scope than those covering “claims” related to a contract. *John Wyeth & Brother Ltd. v. Cigna Int’l Corp.*, 119 F.3d 1070, 1074 (3d Cir. 1997) (Alito, J.). The court also held that a clause using language such as “related to” – equivalent to the language “connected in any way with” in the Agreement here – makes the forum selection clause even more expansive. *Id.* For example, applying *John Wyeth & Brothers*, a district court within the Third Circuit recently found that a clause similar to the one here, which applied to “disputes arising out of or related in any way” to the contract covered more than just claims based on breach of contract. *Kahn v. Am. Heritage Life Ins.*, No. 06-01832, 2006 WL 1879192, at *6 (E.D. Pa. June 29, 2006). The court recognized that such broad provisions can encompass non-contractual claims if the contract was at least connected to the underlying, allegedly unlawful scheme. See *id.* (insurance agent’s claims under the Pennsylvania Human Relations Act against insurer, “while not based on her contract with Defendants, arise out of the contractual relationship created between them by the contract, and her claims implicate the contract to the extent that she claims termination of the contract was a form of unlawful retaliation under the PHRA. Thus, Plaintiff’s PHRA claims are sufficiently related to the agent contract to fall

within the scope of the broadly worded forum selection clause included therein.”); *see also Hay Acquisition Co., I, Inc. v. Schneider*, No. 2:04-CV-1236, 2005 WL 1017804, at *6 (E.D. Pa. Apr. 27, 2005) (“Third Circuit [precedent] is clear that ‘broad, unconditional forum selection clauses which mandate jurisdiction in a specific forum . . . apply to all claims, whether they be based in tort or contract, and shall be enforced” (quoting *Oak Sys. v. Fracotyp-Postalia, Inc., et al.*, No. 01-2794, 2002 U.S. Dist. LEXIS 2213, at *7 (3d Cir. Feb. 5, 2002))).⁶

Finally, the forum selection clause in the Technology Agreement is mandatory, not permissive. The parties consent to the “sole and exclusive jurisdiction and venue” of the St. Louis courts. “Sole” and “exclusive” are unambiguous, meaning that there is no other. But to reinforce the point, the clause here adds that “any lawsuit must be filed in St. Louis, MO.” The clause thus bears no resemblance to the one in some licenses with seed companies – not growers – which provided that claims “*may* be heard and determined in” Missouri. *See American Seed Co., Inc. v. Monsanto Co.*, C.A. No. 05-535-SLR, Order (D. Del. Dec. 5, 2005) (Ex. G) (order denying transfer on ground that this language was permissive (emphasis added)).

Here, Plaintiffs’ allegations of wrongdoing envelop the Technology Agreement. As discussed, Plaintiffs claim that earlier versions of the Technology Agreement unlawfully compelled growers to purchase Roundup herbicide, that the current Agreement restrains trade, and that components of the fees paid under the Technology

⁶ Beyond that, the Third Circuit has found that even more narrowly worded clauses may cover non-contract claims if the dispute implicates the parties’ contractual relation or contract terms. *See Crescent Int’l, Inc. v. Avatar Cmtys., Inc.*, 857 F.2d 943 (3d Cir. 1988 (per curiam) (finding that clause stating that “any litigation upon any of [the contractual] terms . . . shall be maintained” in Florida courts, included RICO and tort claims since they “arise out of contractual relation and implicate the contract’s terms”).

Agreement have resulted in overcharges for Roundup. (Pullen Compl. ¶ 86; Wade Compl. ¶ 88). Plaintiffs describe the Agreement as “exclusionary” and “restrictive,” contend that it “effectively mandates that [farmers] use only Roundup herbicides on Roundup Ready crops,” and complain that “the grower is still effectively locked into using Roundup virtually exclusively.” (Pullen Compl. ¶¶ 86-88, 92; Wade Compl. ¶¶ 88-90, 94). These claims do not merely “arise under” the Agreement. They are explicitly predicated on it. They are not merely “connected with” the use of Monsanto’s technology. They center on the alleged tie between the use of the technology and the purchase of Roundup.

CONCLUSION

Plaintiffs agreed to bring suits like these in St. Louis. Those agreements are valid and enforceable. The Court therefore should dismiss the Complaints.

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Dated: November 20, 2006

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Respectfully submitted,

POTTER ANDERSON & CORROON LLP

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CERTIFICATE OF SERVICE

I, David E. Moore, hereby certify that on November 20, 2006, the attached document was hand delivered to the following persons and was electronically filed with the Clerk of the Court using CM/ECF which will send notification to the registered attorney(s) of record that the document has been filed and is available for viewing and downloading:

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I hereby certify that on November 20, 2006, I have sent by Electronically Mailed the foregoing document to the following:

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EXHIBIT A

**COMPARISON OF SIMILAR ALLEGATIONS
IN PULLEN SEEDS/ WADE FARMS AND SCHOENBAUM COMPLAINTS¹**

Pullen Seeds/ Wade Farms Complaints	Schoenbaum Amended Complaint
“Monsanto has been able to maintain its glyphosate herbicide monopoly . . . through a comprehensive anticompetitive and exclusionary scheme that has involved Monsanto’s unlawful leveraging of its monopolies in both the market for glyphosate herbicides and the markets for genetically modified seed traits.” (Pullen Compl. ¶ 6; Wade Compl. ¶ 6)	“Monsanto has maintained its monopoly power in these markets through a series of exclusionary and other anticompetitive practices.” (Schoenbaum Compl. ¶ 128)
“Monsanto embarked on an \$8 billion acquisition program whereby it acquired, merged with, or obtained an ownership interest in a large number of then existing and leading biotechnology and seed companies.” (Pullen Compl. ¶ 58; Wade Compl. ¶ 60)	“Monsanto, in a multibillion-dollar buying spree - in an effort to acquire traits, technology, intellectual property, hybrid seed, foundation seed assets, and additional seed industry market share - rapidly acquired a large number of leading gene and seed companies.” (Schoenbaum Compl. ¶ 118)
“AgrEvo (an Aventis predecessor) was also trying to develop a glufosinate-based seed trait through a collaboration agreement with Asgrow, a soybean and corn seed company. Had AgrEvo been able to develop such seed, growers could have sprayed glufosinate over glufosinate-tolerant crops. . . . In or about February 1997, however, Monsanto acquired Asgrow and promptly killed the glufosinate project.” (Pullen Compl. ¶ 60; Wade Compl. ¶ 62)	“[I]n a further effort to prevent competition in the genetically-modified soybean seed market, Monsanto entered into an agreement with AgrEvo - the corporate predecessor of Aventis CropScience USA Holding, Inc. (which has since been acquired by Bayer AG) - to prevent AgrEvo’s Liberty Link soybean seeds from gaining market viability.” (Schoenbaum Compl. ¶ 117)
“During this period Monsanto also acquired various other seed and seed technology companies such as Argrocetes (1996), Ecogen (1996), Calgene (1997) and Plant Breeding International (1999) (a Brazilian seed company), all of which had been involved in the development and/or production of biotechnology traits or seeds.” (Pullen Compl. ¶ 63; Wade Compl. ¶ 65)	“Specifically, since 1996, Monsanto has acquired, merged with, or obtained an interest in, <i>inter alia</i> : . . . Calgene LLC (1997); . . . Plant Breeding International (1999); . . . Agracetus (1996); Ecogen Inc. (1996); . . .” (Schoenbaum Compl. ¶ 119)

¹ Complaint, *Pullen Seeds and Soil v. Monsanto Co.*, No. 06-599 (D. Del. Sept. 26, 2006); Complaint *Wade Farms et al. v. Monsanto Co.*, No. 06-600 (D. Del. Sept. 26, 2006); Amended Complaint, *Schoenbaum v. E.I. DuPont de Nemours and Co., et al.*, No. 4:05-CV-1108 (E.D. Mo. June 26, 2006).

<p>“Monsanto also pursued the strategy to neutralize potential competitors by entering into restrictive licensing agreements with independent seed companies.” (Pullen Compl. ¶ 67; Wade Compl. ¶ 69)</p>	<p>“Monsanto has denied seed companies access to these traits unless the seed companies agree to enter restrictive licenses designed to prevent competition.” (Schoenbaum Compl. ¶ 128)</p>
<p>“Monsanto entered into numerous long-term (typically 10-years) licensing agreements with seed companies which grow the seed with Monsanto’s biotechnology seed traits for resale to the market. These agreements . . . prohibited [stacking] . . .” (Pullen Compl. ¶ 68; Wade Compl. ¶ 70)</p>	<p>“Monsanto, however, imposes anticompetitive restrictions on the seed manufacturers, including: (a) prohibiting, . . . ‘stacking’ . . .” (Schoenbaum Compl. ¶ 67)</p>
<p>“Monsanto’s use of licenses to block the development and growth of competing types of biotechnology seed traits and herbicides was the focus of its 1996 strategy called the ‘Monsanto Maize Protection Business Plan.’ The Monsanto Maize Protection Business Plan outlined a scheme to obtain and exercise monopoly control of the markets for biotechnology seed traits by licensing seed trait technology (including the glyphosate-tolerant technologies) to independent seed companies who might otherwise compete with Monsanto.” (Pullen Compl. ¶ 70; Wade Compl. ¶ 72)</p>	<p>“Monsanto’s intent to ‘cartelize’ or otherwise unlawfully control, <i>inter alia</i>, the genetically-modified seed and/or seed trait markets - including the genetically modified soybean and corn seed and/or seed trait markets - is evidenced in . . . its ‘Maize Protection Business Plan’ (the “Protection Plan”). In the Protection Plan, Monsanto outlined its strategy to monopolize and restrain trade through licensing its genetically-modified soybean and corn seed traits to independent seed companies - including Pioneer - that competed both with Monsanto and with each other.” (Schoenbaum Compl. ¶ 101)</p>
<p>“According to an antitrust complaint filed by Syngenta in this Court, <i>Syngenta Seeds, Inc., v. Monsanto Company and Monsanto Technology, LLC</i>, C.A. No. 04-908-SLR, once Monsanto learned of Syngenta’s efforts to develop and market its own glyphosate-tolerant corn seed traits based on the GA21 event, Monsanto prohibited its seed company licensees from developing a seed trait using the GA21 event, effectively foreclosing competition from Syngenta in glyphosate-tolerant corn traits.” (Pullen Compl. ¶ 74; Wade Compl. ¶ 76)</p>	<p>“Likewise, at different times during the Relevant Time Period, Syngenta has asserted, <i>inter alia</i>, that ‘Monsanto is a monopolist in the markets for every biotechnological corn trait available in the United States market,’ Complaint at ¶ 3, <i>Syngenta Seeds, Inc., v. Monsanto Co. and Monsanto Technology, LLC</i>, C.A. No. 04-908-SLR (D. Del. July 28, 2004); ‘Monsanto has maintained its monopoly power [in the corn seed trait market] through a series of exclusionary and unlawful practices . . . [including] den[ying] [competitor] seed companies access to these traits unless the seed companies agree to enter restrictive licenses designed to prevent competition.’ <i>Id.</i> at ¶ 4.” (Schoenbaum Compl. ¶ 49)</p>
<p>“In addition to the exclusive-dealing requirements with its seed company licensees, Monsanto has used various types of bundled rebates to ensure that seed companies produce</p>	<p>“Through, <i>inter alia</i>, its bundled incentive programs . . . and the other methods described above, Monsanto has used its monopoly power in several markets to create virtually</p>

and sell seed containing Monsanto's seed traits virtually exclusively." (Pullen Compl. ¶ 76; Wade Compl. ¶ 78)	impenetrable barriers for any competitor seeking to enter any one of those trait markets, thereby restraining competition therein." (Schoenbaum Compl. ¶ 134)
"Monsanto's dealers and distributors are subject to a variety of restrictive conditions that limit their ability and incentive to sell competing glyphosate herbicide products and which in fact penalize them for selling non-Monsanto herbicides." (Pullen Compl. ¶ 83; Wade Compl. ¶ 85)	"Monsanto's anticompetitive conduct was summed up, . . . that '[t]he pressure Monsanto puts on dealers and distributors makes it very difficult for competitors to sell their own glyphosate products, even when those products are cheaper than Roundup.'" (Schoenbaum Compl. ¶ 135)
"Monsanto . . . has various programs such as its so-called 'Action Pact Program,' pursuant to which Monsanto pays dealers and distributors a percentage rebate. . . ." (Pullen Compl. ¶ 84; Wade Compl. ¶ 86)	"Monsanto employed anti-competitive marketing tactics, including . . . the 'Action Pact' program, and other programs. . . . Monsanto's 'Action Pact' program rewards each participating seed retailer based on that retailer's rate of growth in sales of seeds containing Monsanto's traits. . . ." (Schoenbaum Compl. ¶¶ 129-130)
"As a result of Monsanto's rebate programs, dealers and distributors have little or no incentive to purchase, stock or sell generic glyphosate since if they sell more than a de minimus amount, they stand to be penalized by losing the substantial rebates they would otherwise receive on the sale of Monsanto products." (Pullen Compl. ¶ 85; Wade Compl. ¶ 87)	"The terms of these programs have allowed Monsanto to use its market power in the broad-spectrum-herbicide-resistant soybean and corn seed and/or seed trait markets and the genetically-modified <i>Bt</i> corn seed and/or seed trait markets to exclude other potential competitors from the needed channels of distribution and to monopolize these markets." (Schoenbaum Compl. ¶ 129)
"Monsanto has also imposed exclusionary and restrictive conditions at the grower level that prevent growers from using generic glyphosate in connection with Monsanto's glyphosate-tolerant seed traits. While Monsanto does not typically sell seeds directly to farmers, Monsanto requires growers to sign a technology license, Grower's Agreement and Technology Use Agreement ("TUA") that effectively mandates that they use only Roundup herbicides on Roundup Ready crops." (Pullen Compl. ¶ 86; Wade Compl. ¶ 88)	"In addition to setting forth the farmers' obligation to pay the technology fee to Monsanto as an incorporated part of the price of any purchase of seeds containing Monsanto's technologies, the Technology Agreement contains numerous other terms as well. These terms are so onerous that they demonstrate the anticompetitive lock that Monsanto has on the relevant genetically-modified seed and/or seed trait markets." (Schoenbaum Compl. ¶ 91)

EXHIBIT B

GROWER AGREES:

- To direct grain produced from corn containing the YieldGard Rootworm trait and stalks that include the Roundup Ready Corn 2 and/or YieldGard Rootworm trait(s) to appropriate markets as necessary.
- If growing Roundup Ready alfalfa: to comply with the Seed and Feed Use Agreement, which is incorporated and part of this Agreement, to direct any product produced from a Roundup Ready alfalfa crop or seed, including hay and hay products, only to those countries where regulatory approvals have been granted, and not to plant Roundup Ready alfalfa for the production of sprouts. Refer to the Technology Use Guide for additional information.
- To accept and continue the obligations of this Monsanto Technology Stewardship Agreement on any new land purchased or leased by Grower that has Seed planted on it by a previous owner or possessor of the land; and to notify in writing purchasers or lessees of land owned by Grower that has Seed planted on it that the Monsanto Technology is subject to this Monsanto Technology Stewardship Agreement and they must have or obtain their own Monsanto Technology Stewardship Agreement.
- To implement an Insect Resistance Management program as specified in the applicable Bollgard/Bollgard II cotton and YieldGard corn sections of the most recent Technology Use Guide (TUG) and Insect Resistance Management (IRM) guides and to cooperate and comply with Insect Resistance Management programs.
- To use Seed containing Monsanto Technologies solely for planting a single commercial crop. Not to save any crop produced from Seed for planting and not to supply Seed produced from Seed to anyone for planting other than to a Monsanto licensed seed company.
- Not to transfer any Seed containing patented Monsanto Technologies to any other person or entity for planting.
- To plant Seed for Seed production, if and only if, Grower has entered into a valid, written Seed production agreement with a Seed company that is licensed by Monsanto to produce Seed. Grower must either physically deliver to that licensed Seed company or must sell or use as commodity grain all of the Seed produced pursuant to a Seed production agreement. Grower shall NOT plant any Seed Grower has produced or use or to allow others to use Seed containing patented Monsanto Technologies for crop breeding, research, or generation of herbicide registration data.
- To use on Roundup Ready crops only a labeled Roundup® agricultural herbicide or other authorized non-selective herbicide which could not be used in the absence of the Roundup Ready gene (see TUG for details on authorized non-selective products). Use of any selective herbicide labeled for the same crop without the Roundup Ready gene is not restricted by this Agreement. MONSANTO DOES NOT MAKE ANY REPRESENTATIONS, WARRANTIES OR RECOMMENDATIONS CONCERNING THE USE OF PRODUCTS MANUFACTURED OR MARKED BY OTHER COMPANIES WHICH ARE LABELED FOR USE IN ROUNDUP READY CROPS. MONSANTO SPECIFICALLY DISCLAIMS ALL RESPONSIBILITY FOR THE USE OF THESE PRODUCTS IN ROUNDUP READY CROPS. ALL QUESTIONS AND COMPLAINTS ARISING FROM THE USE OF PRODUCTS MANUFACTURED OR MARKED BY OTHER COMPANIES SHOULD BE DIRECTED TO THOSE COMPANIES.
- To read and follow the applicable sections of the TUG, which is incorporated into and is a part of this Agreement, for specific requirements relating to the terms of this Agreement, and to abide by and be bound by the terms of the TUG as it may be amended from time to time.
- To acquire Seed containing these Monsanto Technologies only from a seed company with technology license(s) from Monsanto or from a licensed company's authorized dealer.
- To pay all technology fees due to Monsanto that are a part of, associated with or collected with the Seed purchase price or that are invoiced for the seed.
- Upon written request, to allow Monsanto to review the Farm Service Agency crop reporting information on any land farmed by Grower including Summary Acreage History Report, Form 578 and corresponding aerial photographs, Risk Management Agency claim documentation, and dealer/retailer invoices for seed and chemical transactions.
- To allow Monsanto to examine and copy any records and receipts that could be relevant to Grower's performance of this Agreement.

GROWER UNDERSTANDS:

- Commodity Marketing: Grain/commodities harvested from YieldGard Plus corn, YieldGard Plus with Roundup Ready Corn 2, YieldGard Rootworm with Roundup Ready Corn 2, YieldGard Corn Borer with Roundup Ready Corn 2, Roundup Ready Canola, and YieldGard Rootworm corn are approved for U.S. food and feed use but not yet approved in certain export markets where approval is not certain to be received before the end of 2006. As a result, Grower must direct those grain/commodities to the following approved market options: feeding on farm, use in domestic feed lots, elevators that agree to accept the grain, or other approved uses in domestic markets only. Go to www.B66sell.com for a list of Grain Handlers' positions on accepting transgenic corn. The American Seed Trade Association web site (www.amseed.org) includes a list of grain handlers' positions on accepting transgenic corn. You must complete and send to Monsanto a Market Choices® Grain Marketing Communication Plan. For additional information on grain market options or to obtain additional forms, call 1-800-768-6387.
- Regulatory approvals: Monsanto Technologies may only be used where the products have been approved for use by all required governmental agencies. For example, some Monsanto Technologies are not approved in all states. Check with your Monsanto representative if you have questions about the approval status in your state.
- Insect Resistance Management (IRM): When planting any YieldGard or Bollgard product, Grower must implement an IRM program including planting a non-Bt refuge according to the size and distance guidelines specified in the Bollgard cotton and YieldGard corn sections of the most recent Monsanto Technology Use Guide including any supplemental amendments (collectively "TUG") and the crop specific IRM guides. Grower may lose Grower's limited use license to use these products if Grower fails to follow the IRM program required by this Agreement.
- Crop Stewardship & Specialty Crops: Refer to the section on Coexistence and Identity Preservation in the TUG for information on crop stewardship and considerations for production of identity preserved crops

MONSANTO'S REMEDIES:

If Grower breaches this Agreement, in addition to Monsanto's other remedies, Grower's limited-use license will terminate immediately. Thereafter, Monsanto will not accept any application for a new Monsanto Technology/Stewardship Agreement unless Monsanto provides in writing an authorization specifically naming Grower. Any such purported agreement that does not contain Monsanto's express authorization (whether a license number has been issued or not) is void. Injunction; Infringement and Contract Damages. If Grower is found by any court to have infringed one or more of the U.S. patents listed below, Grower agrees that Monsanto will be entitled to a permanent injunction enjoining Grower from making, using, selling, or offering for sale Seed and patent infringement damages to the full extent authorized by 35 U.S.C. § 271 et seq. Grower will also be liable for all breach of contract damages. If Grower is found by any court to have infringed one or more of the U.S. patents listed below or otherwise to have breached this agreement, Grower agrees to pay Monsanto and the licensed Monsanto Technology provider(s) their attorneys' fees and costs.

Grower accepts the terms of the following NOTICE REQUIREMENT, LIMITED WARRANTY AND DISCLAIMER OF WARRANTY AND EXCLUSIVE LIMITED REMEDY by signing this Agreement and/or opening a bag of Seed containing Monsanto Technology. If Grower does not agree to be bound by the conditions of purchase or use, Grower agrees to return the unopened bags to Grower's seed dealer.

NOTICE REQUIREMENT:

As a condition precedent to Grower or any other person with an interest in Grower's crop asserting any claim, action, or dispute against Monsanto and/or any seller of Seed containing Monsanto Technologies regarding performance or non-performance of Monsanto Technologies or the Seed in which it is contained, Grower must provide Monsanto a written, prompt, and timely notice (regarding performance or non-performance of the Monsanto Technologies) and to the seller of any Seed (regarding performance or non-performance of the Seed) within sufficient time to allow an in-field inspection of the crop(s) about which any controversy, claim, action, or dispute is being asserted. The notice will be timely only if it is delivered 15 days or less after the Grower first observes the issue(s) regarding performance or non-performance of the Monsanto Technology and/or the Seed in which it is contained. The notice shall include a statement setting forth the nature of the claim, name of the Monsanto Technology, and Seed hybrid or variety.

LIMITED WARRANTY AND DISCLAIMER OF WARRANTIES:

Monsanto warrants that the Monsanto Technologies licensed hereunder will perform as set forth in the TUG when used in accordance with directions. This warranty applies only to Monsanto Technologies contained in planting Seed that has been purchased from Monsanto and seed companies licensed by Monsanto or the seed company's authorized dealers or distributors. EXCEPT FOR THE EXPRESS WARRANTIES IN THE LIMITED WARRANTY SET FORTH ABOVE, MONSANTO MAKES NO OTHER WARRANTIES OF ANY KIND, AND DISCLAIMS ALL OTHER WARRANTIES, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE.

GROWER'S EXCLUSIVE LIMITED REMEDY:

THE EXCLUSIVE REMEDY OF THE GROWER AND THE LIMIT OF THE LIABILITY OF MONSANTO OR ANY SELLER FOR ANY AND ALL LOSSES, INJURY OR DAMAGES RESULTING FROM THE USE OR HANDLING OF SEED CONTAINING MONSANTO TECHNOLOGY (INCLUDING CLAIMS BASED IN CONTRACT, NEGLIGENCE, PRODUCT LIABILITY, STRICT LIABILITY, TORT, OR OTHERWISE) SHALL BE THE PRICE PAID BY THE GROWER FOR THE QUANTITY OF THE SEED INVOLVED OR, AT THE ELECTION OF MONSANTO OR THE SEED SELLER, THE REPLACEMENT OF THE SEED. IN NO EVENT SHALL MONSANTO OR ANY SELLER BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES.

Thank you for choosing our advanced technologies. We look forward to working with you in the future. If you have any questions regarding the Monsanto Technologies or this license, please call the Monsanto Customer Relations Center at 1-800-ROUNDUP.

GOVERNING LAW: This Agreement and the parties' relationship shall be governed by the laws of the State of Missouri and the United States (without regard to the choice of law rules)

BINDING ARBITRATION FOR COTTON-RELATED CLAIMS MADE BY GROWER: Any claim or action made or asserted by a cotton Grower (or any other person claiming an interest in the Grower's cotton crop) against Monsanto or any seller of cotton Seed containing Monsanto Technology arising out of and/or in connection with this Agreement or the sale or performance of the cotton Seed containing Monsanto Technology other than claims arising under the patent laws of the United States must be resolved by binding arbitration. The parties acknowledge that the transaction involves interstate commerce. The parties agree that arbitration shall be conducted pursuant to the provisions of the Federal Arbitration Act, 9 U.S.C. Sec. 1 et seq. and administered under the Commercial Dispute Resolution Procedures established by the American Arbitration Association ("AAA"). The term "seller" as used throughout this Agreement refers to all parties involved in the production, development, distribution, and/or sale of the Seed containing Monsanto Technology. In the event that a claim is not amicably resolved within 30 days of Monsanto's receipt of the Grower's notice required pursuant to this Agreement any party may initiate arbitration. The arbitration shall be heard in the capital city of the state of Grower's residence or in any other place as the parties decide by mutual agreement. When a demand for arbitration is filed by a party, the Grower and Monsanto/sellers shall each immediately pay one half of the AAA filing fee. In addition, Grower and Monsanto/sellers shall each pay one half of AAA's administrative and arbitrator fees as those fees are incurred. The arbitrator(s) shall have the power to apportion the ultimate responsibility for all AAA fees in the final award. The arbitration proceedings and results are to remain confidential and are not to be disclosed without the written agreement of all parties, except to the extent necessary to effectuate the decision or award of the arbitrator(s) or as otherwise required by law.

FORUM SELECTION FOR NON-COTTON-RELATED CLAIMS MADE BY GROWER AND ALL OTHER CLAIMS: THE PARTIES CONSENT TO THE SOLE AND EXCLUSIVE JURISDICTION AND VENUE OF THE U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF MISSOURI, EASTERN DIVISION, AND THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS, MISSOURI, (ANY LAWSUIT MUST BE FILED IN ST. LOUIS, MO) FOR ALL CLAIMS AND DISPUTES ARISING OUT OF OR CONNECTED IN ANY WAY WITH THIS AGREEMENT AND THE USE OF THE SEED OR THE MONSANTO TECHNOLOGIES, EXCEPT FOR COTTON-RELATED CLAIMS MADE BY GROWER.

THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION FOR COTTON RELATED CLAIMS PURSUANT TO THE PROVISIONS OF THE FEDERAL ARBITRATION ACT, 9 U.S.C. § 1 ET SEQ., WHICH MAY BE ENFORCED BY THE PARTIES.

GROWER SIGNATURE & DATE REQUIRED

Name _____

Date _____

EXHIBIT C

2005 MONSANTO TECHNOLOGY/STEWARDSHIP AGREEMENT

(Limited Use License)

PLEASE MAIL THE SIGNED 2005 MONSANTO TECHNOLOGY/STEWARDSHIP AGREEMENT TO:
Grower Licensing, Monsanto, 622 Emerson Road, Suite 150, St. Louis, MO 63141

GROWER INFORMATION (please print)

Please complete this section with your business information. To sign this Agreement you must be the operator/grower for all fields that will grow plants from Seed you obtain containing Monsanto Technologies (defined below). You represent that you have full authority to and do hereby bind to this Agreement yourself, all entities for which you obtain Seed, all individuals and entities having an ownership interest in any entities for which you obtain Seed, and that Monsanto Company has not barred any of those individuals or entities from obtaining this limited-use license. Your name must be filled in and must match the signature below.

Grower's Name (First/Middle/Last) Dr. ☐ Mr. ☐ Mrs. ☐ Ms. ☐ Suffix (Jr, Sr, II, III, etc.) Farm Business Name

911 Business Address Business City State Zip

Area Code Business Phone Fax

E-mail Address

PRIMARY SEED SUPPLIER

Business Name

Area Code Phone City State

THIS SPACE FOR MONSANTO OFFICE USE ONLY, PLEASE LEAVE THIS SECTION BLANK:

Lic. #: Batch #: Date:

This Monsanto Technology/Stewardship Agreement is entered into between you (Grower) and Monsanto Company (Monsanto) and consists of the terms on this page and on the second page.

This Monsanto Technology/Stewardship Agreement grants Grower a limited license to use Roundup Ready® soybeans, YieldGard® Corn Borer com, YieldGard Rootworm® com, YieldGard Rootworm with Roundup Ready® com 2, YieldGard Plus com**, YieldGard Plus with Roundup Ready® com 2*, Roundup Ready® com, Roundup Ready® com 2, YieldGard Corn Borer with Roundup Ready® cotton, Roundup Ready® cotton, Bollgard® cotton, Bollgard® with Roundup Ready® cotton, Bollgard® II cotton, Bollgard® II with Roundup Ready® cotton, Roundup Ready® sugarbeets, Roundup Ready® canola, and Roundup Ready® alfalfa* (Monsanto Technologies). This Agreement also contains Grower's stewardship responsibilities and requirements associated with the Monsanto Technologies.

GENERAL TERMS:

Grower's rights may not be transferred to anyone else without the written consent of Monsanto. If Grower's rights are transferred with Monsanto's consent or by operation of law, this Agreement is binding on the person or entity receiving the transferred rights. If any provision of this Agreement is determined to be void or unenforceable, the remaining provisions shall remain in full force and effect.

Grower acknowledges that Grower has received a copy of Monsanto's Technology Use Guide (TUG). To obtain additional copies of the Monsanto Technology Use Guide, contact Monsanto at 1-800-768-6387. This Agreement will remain in effect until either Grower or Monsanto choose to terminate the Agreement. Once you enroll, information regarding new and existing Monsanto Technologies and any new terms will be mailed to you each year. Your continuing use of Monsanto Technologies after receipt of any new terms constitutes your agreement to be bound by the new terms. If any provision of this Agreement is determined to be void or unenforceable, the remaining provisions shall remain in full force and effect.

GROWER RECEIVES FROM MONSANTO COMPANY:

- A limited use license to purchase and plant seed containing Monsanto Technologies ("Seed") and apply Roundup agricultural herbicides and other authorized non-selective herbicides over the top of Roundup Ready crops. Monsanto retains ownership of the Monsanto Technologies including the genes (for example, the Roundup Ready gene) and the gene technologies. Grower receives the right to use the Monsanto Technologies subject to the conditions specified in this Agreement and for canola in a separate use agreement.
- Monsanto Technologies are protected under U.S. patent law. Monsanto licenses the Grower, under applicable patents owned or licensed by Monsanto, to use Monsanto Technologies subject to the conditions listed in this Agreement. This license does not authorize Grower to plant Seed in the United States that has been purchased in another country or plant Seed in another country that has been purchased in the United States.
- Enrollment in the value package called Roundup Rewards™, designed to bring increased benefits to you.
- A limited use license to prepare and apply on glyphosate-tolerant soybean, cotton, or canola crops (or have others prepare and apply) tank mixes of, or sequentially apply (or have others sequentially apply), Roundup agricultural herbicides or other glyphosate herbicides labeled for use on those crops with quizalofop, clethodim, sethoxydim, fluazifop, and/or fenoxaprop to control volunteer Roundup Ready corn in Grower's crops for the 2005 growing season. However, neither Grower nor a third party may utilize any type of co-pack or premix of glyphosate plus one or more of the above identified active ingredients in the preparation of a tank mix.

PLEASE MAIL THE SIGNED 2005 MONSANTO TECHNOLOGY/STEWARDSHIP AGREEMENT TO: Grower Licensing, Monsanto, 622 Emerson Road, Suite 150, St. Louis, MO 63141. This Monsanto Technology/Stewardship Agreement becomes effective if and when Monsanto issues the Grower a license number from Monsanto's home office in St. Louis, Missouri. Monsanto does not authorize seed dealers or seed retailers to issue a license of any kind for Monsanto Technologies.

UNITED STATES PATENTS:

The licensed U.S. patents include: for YieldGard® Corn Borer com - 5,484,956; 5,352,605; 5,424,412; 5,859,347; 5,593,874; 6,331,665; for YieldGard Corn Rootworm com - 5,110,732; 6,174,724; 5,484,956; 5,352,605; 5,023,179; 6,063,597; 6,331,665; 6,501,009; for YieldGard® Plus com - 5,023,179; 5,352,605; 5,484,956; 5,424,412; 5,859,347; 5,593,874; 6,063,597; 6,174,724; 6,331,665; for Roundup Ready® com 2 - 4,940,835; 5,188,642; 5,359,142; 5,196,525; 5,322,938; 5,164,316; 5,352,605; 5,554,798; 5,593,874; 5,859,347; 5,424,412; 5,633,435; 5,804,425; 5,641,876; 5,717,084; 5,728,925; 6,083,878; 6,025,545; for Roundup Ready® com - 4,940,835; 5,188,642; 6,025,545; 5,554,798; 6,040,497; 5,641,876; 5,717,084; 5,728,925; 6,083,878; for YieldGard Corn Borer with Roundup Ready® com - 5,484,956; 5,352,605; 5,424,412; 5,859,347; 5,593,874; 6,331,665; 4,940,835; 5,188,642; 5,359,142; 5,196,525; 5,322,938; 5,164,316; 5,554,798; 5,633,435; 5,804,425; 5,641,876; 5,717,084; 5,728,925; 6,083,878; 6,025,545; for Roundup Ready® soybeans - 4,940,835; 5,188,642; 5,352,605; 5,633,435; 5,530,196; 5,717,084; 5,728,925; 5,804,425; for Roundup Ready® cotton - 5,633,435; 5,352,605; 5,530,196; 5,188,642; 4,940,835; 5,804,425; 6,051,753; 6,018,100; 5,378,619; 6,174,724; 5,159,135; 5,004,863; 5,728,925; 5,717,084; 6,083,878; for Bollgard® cotton - 5,359,142; 5,352,605; 5,530,196; 5,322,938; 5,196,525; 5,164,316; 6,174,724; 5,880,275; 5,159,135; 5,004,863; 6,083,878; 5,880,275 and 5,804,425; for Bollgard® II cotton - 5,359,142; 5,352,605; 5,530,196; 5,322,938; 5,196,525; 5,164,316; 6,174,724; 5,880,275; 5,159,135; 5,004,863; 5,728,925; 5,717,084; 5,338,544; 5,659,122; 5,362,865; for Bollgard® II with Roundup Ready® cotton - 5,633,435; 6,489,542; 5,359,142; 5,352,605; 5,530,196; 5,322,938; 5,196,525; 5,164,316; 6,174,724; 5,880,275; 5,159,135; 5,004,863; 5,728,925; 5,717,084; 5,338,544; 5,659,122; 5,362,865; 6,018,100; 5,378,619; 6,174,724; 5,159,135; 5,004,863; 6,083,878; 5,880,275; 5,804,425; 5,338,544; for Roundup Ready® canola - 6,051,753; 6,018,100; 5,378,619; 5,728,925; 5,776,760; 5,717,084; 5,804,425; 5,633,435; 5,627,061; 5,188,642; 4,940,835; 5,463,175; 6,083,878; for Roundup Ready® sugarbeets - 5,378,619; 5,463,175; 5,776,760; 5,633,435; 5,164,316; 5,196,525; 5,322,938; 5,359,142; 5,352,605; 5,530,196; 4,940,835; 5,188,642; 5,717,084; 5,728,925; 6,018,100; 6,051,753; 6,083,878; 5,804,425; 6,174,724; for Roundup Ready® Alfalfa - 6,051,753; 6,018,100; 5,378,619; 5,362,865; 5,659,122; 5,717,084; 5,728,925; 5,633,435; 5,804,425; for tank mix 6,239,072.

ALWAYS READ AND FOLLOW PESTICIDE LABEL DIRECTIONS. Roundup® agricultural herbicides will kill crops that do not contain the Roundup Ready® gene. Roundup®, Roundup Ready®, Bollgard®, YieldGard®, and the Vine Symbol are trademarks of Monsanto Technology LLC. Roundup Rewards™ is a servicemark of Monsanto Technology LLC © 2001 Monsanto Company. Roundup Rewards applies only to Roundup branded and other specified Monsanto agricultural herbicides.



GROWER AGREES:

- To direct grain produced from corn containing the Roundup Ready and/or YieldGard Rootworm trait(s) (including stacks) to appropriate markets as necessary to prevent movement to markets within the European Union (until issuance of final approvals).
- To implement an Insect Resistance Management program as specified in the applicable Bollgard cotton and YieldGard corn sections of the most recent Technology Use Guide (TUG) and to cooperate and comply with Insect Resistance Management programs.
- To use Seed containing Monsanto Technologies solely for planting a single commercial crop.
- Not to supply any Seed containing patented Monsanto Technologies to any other person or entity for planting. Not to save any crop produced from Seed for planting and not to supply Seed produced from Seed to anyone for planting.
- Not to use or to allow others to use Seed containing patented Monsanto Technologies for crop breeding, research, generation of herbicide registration data, or Seed production (unless Grower has entered into a valid, written production agreement with a licensed seed company).
- To use on Roundup Ready crops only a Roundup® agricultural herbicide or other authorized non-selective herbicide which could not be used in the absence of the Roundup Ready gene (see TUG for details on authorized non-selective products). Use of any selective herbicide labeled for the same crop without the Roundup Ready gene is not restricted by this Agreement. MONSANTO DOES NOT MAKE ANY REPRESENTATIONS, WARRANTIES OR RECOMMENDATIONS CONCERNING THE USE OF PRODUCTS MANUFACTURED OR MARKETING BY OTHER COMPANIES WHICH ARE LABELED FOR USE IN ROUNDUP READY CROP(S). MONSANTO SPECIFICALLY DISCLAIMS ALL RESPONSIBILITY FOR THE USE OF THESE PRODUCTS IN ROUNDUP READY CROP(S). ALL QUESTIONS AND COMPLAINTS ARISING FROM THE USE OF PRODUCTS MANUFACTURED OR MARKETING BY OTHER COMPANIES SHOULD BE DIRECTED TO THOSE COMPANIES.
- To read and follow the applicable sections of the TUG, which is incorporated into and is a part of this Agreement, for specific requirements relating to the terms of this Agreement, and to abide by and be bound by the terms of the TUG as it may be amended from time to time.
- To acquire Seed containing these Monsanto Technologies only from a seed company with technology license(s) from Monsanto or from a licensed company's authorized dealer.
- To pay the technology fees due to Monsanto that are a part of or collected with the Seed purchase price.
- Upon written request, to allow Monsanto to review the Farm Service Agency crop reporting information on any land farmed by Grower including Summary Acreage History Report, Form 578 and corresponding aerial photographs, Risk Management Agency claim documentation, and dealer/retailer invoices for your seed and chemical transactions.
- To allow Monsanto to examine and copy any records and receipts that could be relevant to Grower's performance of this Agreement.

** Final regulatory approvals are pending for Roundup Ready alfalfa and YieldGard Plus with Roundup Ready corn 2. These products are not currently registered with the U.S. Environmental Protection Agency and are not currently available for sale or commercial use. UPON APPROVAL, this Monsanto Technology/Stewardship Agreement (limited use license) will be used and shall govern the terms and conditions for the authorized use of these products. **As of 4/16/04, YieldGard Plus is awaiting final Japanese approval and is being distributed in 2004 pursuant to a controlled Grower Demonstration Program. Upon final Japanese approval, Monsanto plans a national launch for the 2005 growing season*

GROWER UNDERSTANDS:

- Grain Marketing: Grain/commodities harvested from Roundup Ready corn, Roundup Ready corn 2, YieldGard Plus corn, YieldGard Plus with Roundup Ready corn 2, YieldGard Rootworm with Roundup Ready corn 2, YieldGard Corn Borer with Roundup Ready corn 2, Roundup Ready canola, and YieldGard Rootworm corn are approved for U.S. food and feed use but not yet approved in certain export markets where approval is not certain to be received before the end of 2005. As a result, Grower must direct those grain/commodities to the following approved market options: feeding on farm, use in domestic feed lots, elevators that agree to accept the grain, or other approved uses in domestic markets only. The American Seed Trade Association web site (www.amseed.org) includes a list of grain handlers' positions on accepting transgenic corn. You must complete and send to Monsanto a Market Choices® form. For additional information on grain market options or to obtain additional forms, call 1-800-768-6387.
- Regulatory approvals: Monsanto Technologies may only be used within the United States where the products have been approved for use by all required governmental agencies.
- Insect Resistance Management (IRM): When planting any YieldGard or Bollgard product, Grower must implement an IRM program including planting a non-Bt refuge according to the size and distance guidelines specified in the Bollgard cotton and YieldGard corn sections of the most recent Monsanto Technology Use Guide including any supplemental amendments (collectively "TUG"). Grower may lose Grower's limited use license to use these products if Grower fails to follow the IRM program required by this Agreement.
- Gene flow: Refer to the TUG for information on crop stewardship regarding the potential movement of pollen to neighboring crops.

MONSANTO'S REMEDIES:

- Termination of License.** If Grower breaches this Agreement, in addition to Monsanto's other remedies, Grower's limited-use license will terminate immediately. Thereafter, Monsanto will not accept any offer for a new Monsanto Technology/Stewardship Agreement with Grower, unless Monsanto expressly provides in writing an authorization specifically naming Grower. Any such purported agreement that does not contain Monsanto's express authorization (whether a license number has been issued or not) is void.
- Injunction; Infringement and Contract Damages.** If Grower is found by any court to have infringed one or more of the U.S. patents listed below, Grower agrees that Monsanto will be entitled to a permanent injunction enjoining Grower from making, using, selling, or offering for sale Seed and patent infringement damages to the full extent authorized by 35 U.S.C. § 283. Grower will also be liable for all breach of contract damages.
- Attorneys Fees.** If Grower is found by any court to have infringed one or more of the U.S. patents listed below or otherwise to have breached this agreement, Grower agrees to pay Monsanto and the licensed Monsanto Technology provider(s) their attorneys' fees and costs.

Grower accepts the terms of the following NOTICE REQUIREMENT, LIMITED WARRANTY AND DISCLAIMER OF WARRANTY AND EXCLUSIVE LIMITED REMEDY by signing this Agreement and/or opening a bag of seed containing Monsanto Technology. If Grower does not agree to be bound by the conditions of purchase or use, Grower agrees to return the unopened bags to Grower's seed dealer.

NOTICE REQUIREMENT:

As a condition precedent to Grower or any other person with an interest in Grower's crop asserting any claim, action, or dispute against Monsanto and/or any seller of Seed containing Monsanto Technologies regarding performance or non-performance of Monsanto Technologies or the Seed in which it is contained, Grower must provide Monsanto a written, prompt, and timely notice (regarding performance or non-performance of the Monsanto Technologies) and to the seller of any Seed (regarding performance or non-performance of the Seed) within sufficient time to allow an in-field inspection of the crop(s) about which any controversy, claim, action, or dispute is being asserted. The notice will be timely only if it is delivered 15 days or less after the Grower first observes the issue(s) regarding performance or non-performance of the Monsanto Technology and/or the Seed in which it is contained. The notice shall include a statement setting forth the nature of the claim, name of the Monsanto Technology, and Seed hybrid or variety.

LIMITED WARRANTY AND DISCLAIMER OF WARRANTIES:

Monsanto warrants that the Monsanto Technologies licensed hereunder will perform as set forth in the TUG when used in accordance with directions. This warranty applies only to Monsanto Technologies contained in planting Seed that has been purchased from Monsanto and seed companies licensed by Monsanto or the seed company's authorized dealers or distributors. EXCEPT FOR THE EXPRESS WARRANTIES IN THE LIMITED WARRANTY SET FORTH ABOVE, MONSANTO MAKES NO OTHER WARRANTIES OF ANY KIND, AND DISCLAIMS ALL OTHER WARRANTIES, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE.

GROWER'S EXCLUSIVE LIMITED REMEDY:

THE EXCLUSIVE REMEDY OF THE GROWER AND THE LIMIT OF THE LIABILITY OF MONSANTO OR ANY SELLER FOR ANY AND ALL LOSSES, INJURY OR DAMAGES RESULTING FROM THE USE OR HANDLING OF SEED CONTAINING MONSANTO TECHNOLOGY (INCLUDING CLAIMS BASED IN CONTRACT, NEGLIGENCE, PRODUCT LIABILITY, STRICT LIABILITY, TORT, OR OTHERWISE) SHALL BE THE PRICE PAID BY THE GROWER FOR THE QUANTITY OF THE SEED INVOLVED OR, AT THE ELECTION OF MONSANTO OR THE SEED SELLER, THE REPLACEMENT OF THE SEED. IN NO EVENT SHALL MONSANTO OR ANY SELLER BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES.

Thank you for choosing our advanced technologies. We look forward to working with you in the future. If you have any questions regarding the Monsanto Technologies or this license, please call the Monsanto Customer Relations Center at: 1-800-ROUNDUP.

GOVERNING LAW: This Agreement and the parties' relationship shall be governed by the laws of the state of Missouri and the United States (without regard to the choice of law rules).

BINDING ARBITRATION FOR COTTON-RELATED CLAIMS MADE BY GROWER: Any claim or action made or asserted by a cotton Grower (or any other person claiming an interest in the Grower's cotton crop) against Monsanto or any seller of cotton Seed containing Monsanto Technology arising out of and/or in connection with this Agreement or the sale or performance of the cotton Seed containing Monsanto Technology other than claims arising under the patent laws of the United States must be resolved by binding arbitration. The parties acknowledge that the transaction involves interstate commerce. The parties agree that arbitration shall be conducted pursuant to the provisions of the Federal Arbitration Act, 9 U.S.C. Sec 1 et seq. and administered under the Commercial Dispute Resolution Procedures established by the American Arbitration Association ("AAA"). The term "seller" as used throughout this Agreement refers to all parties involved in the production, development, distribution, and/or sale of the Seed containing Monsanto Technology. In the event that a claim is not amicably resolved within 30 days of Monsanto's receipt of the Grower's notice required pursuant to this Agreement any party may initiate arbitration. The arbitration shall be heard in the capital city of the state of Grower's residence or in any other place as the parties decide by mutual agreement. When a demand for arbitration is filed by a party, the Grower and Monsanto/sellers shall each immediately pay one half of the AAA filing fee. In addition, Grower and Monsanto/sellers shall each pay one half of AAA's administrative and arbitrator fees as those fees are incurred. The arbitrator(s) shall have the power to apportion the ultimate responsibility for all AAA fees in the final award. The arbitration proceedings and results are to remain confidential and are not to be disclosed without the written agreement of all parties, except to the extent necessary to effectuate the decision or award of the arbitrator(s) or as otherwise required by law.

FORUM SELECTION FOR NON-COTTON-RELATED CLAIMS MADE BY GROWER AND ALL OTHER CLAIMS: THE PARTIES CONSENT TO THE SOLE AND EXCLUSIVE JURISDICTION AND VENUE OF THE U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF MISSOURI, EASTERN DIVISION, AND THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS, MISSOURI, (ANY LAWSUIT MUST BE FILED IN ST. LOUIS, MO) FOR ALL CLAIMS AND DISPUTES ARISING OUT OF OR CONNECTED IN ANY WAY WITH THIS AGREEMENT AND THE USE OF THE SEED OR THE MONSANTO TECHNOLOGIES, EXCEPT FOR COTTON-RELATED CLAIMS MADE BY GROWER.

THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION FOR COTTON RELATED CLAIMS PURSUANT TO THE PROVISIONS OF THE FEDERAL ARBITRATION ACT. 9 U.S.C. §1 ET SEQ, WHICH MAY BE ENFORCED BY THE PARTIES.

GROWER SIGNATURE & DATE REQUIRED

Name _____

Date _____

NON-IDENT COPY

GRONER RECEIVES FROM MORGENTHAU COMPANY:

- GROWER RECEIVES FROM MONSANTO COMPANY:**
- A limited area license to purchase and plant seed containing Monsanto Technologies ("Seed") and apply Roundup Agricultural herbicides and other authorized non-weedicide herbicides over the top of Roundup Ready crops.
 - Monsanto makes no warranty of the Monsanto Technologies included in the Seed or the effectiveness of the Roundup Ready seeds and the gene technologies. Grower receives the right to use the Monsanto Technologies subject to this Agreement and its incorporation in the relevant seed agreements, which are required for certain seeds.
 - Monsanto Technologies are protected under U.S. patent law. Monsanto licenses the Grower, under applicable patents owned or licensed by Monsanto, to use Monsanto Technologies subject to the conditions listed in this Agreement. This license does not authorize Grower to plant Seed in the United States that has been purchased in another country or plant Seed in another country that has been purchased in the United States.
 - Enrollment in the value package called Roundup Ready® is required.
- The above-described Monsanto Technologies may be used on soybeans, cotton, or corn crops or have optional pre-plant and/or post-harvest application tank mixes of, or sequentially applied, Roundup agricultural herbicides or other glyphosate herbicides labeled for use on those crops with quinclorac, diflufenican, sethoxydim, flazasulfuron, and/or fenoxaprop to control volunteer Roundup Ready crop in Grower's crops for the 2004 growing season. However, neither Grower nor a third party may utilize any type of co-pack or prepack of glyphosate plus one or more of the above-identified active ingredients in the preparation of a tank mix.

GROWER UNDERSTANDS

- GRASSROOT UNDERSTANDING:**
- * **Channelling:** Grain/commodities harvested from Roundup Ready corn, YieldGuard Corn Borer with Roundup Ready corn, Roundup Ready canola, YieldGuard Rootworm corn, and Roundup Ready sugarcane are approved for U.S. food and feed use, but not yet approved in certain export markets where approval is not certain to be received before the start of export. As a result, Growers must direct those grain/commodity sales to the following approved market options: feeding on farm, use in domestic feed lots, elevators that agree to accept the grain, or other approved uses in domestic markets only. The American Seed Trade Association web site (www.seedtrade.org) includes a list of grain handlers' positions on accepting Roundup Ready corn. You must complete and send to Monsanto a Market Choices™ form. For additional information on grain market options or to obtain additional forms, call 1-800-766-6349.
 - * **Export Approval:** Monsanto Technologies may only be used within the United States where the products have been approved for use by all required governmental agencies.
 - * **Insect Resistance Management (IRM):** When planting any YieldGuard or Bollgard product, Grower must implement an IRM program including planting a non-Bt refuge according to the size and distance guidelines specified in the Bollgard corn and YieldGuard corn sections of the most recent Monsanto Technology Use Guide including any supplemental understandings (collectively "TUG"). Grower may lose Grower's limited use license to use these products if grower fails to follow the IRM program required by this Agreement.
 - * **Pollin Flow:** Refer to the TUG for information on crop stewardship regarding the potential movement of pollen to neighboring crops.

GENERAL TERMS:

GENERAL TERMS
Grower's rights may not be transferred to anyone else without the written consent of Monsanto. If Grower's rights are transferred with Monsanto's consent or by operation of law, this Agreement is binding on the person or entity receiving the transferred rights. If any provision of this Agreement is determined to be void or unenforceable, the remaining provisions shall remain in full force and effect.

Grower acknowledges that Grower has received a copy of Monsanto's Technology Use Guide (TUG). To obtain additional copies of the Monsanto Technology Use Guide, contact Monsanto at 1-800-766-6977. This Agreement will remain in effect until either Grower or Monsanto choose to terminate the Agreement. Once you enroll, information regarding new and existing Monsanto Technologies and any new terms will be mailed to you each year. Your continuing use of Monsanto Technologies after receipt of any new terms constitutes your agreement to be bound by the new terms. If any provision of this Agreement is determined to be void or unenforceable, the remaining provisions shall remain in full force and effect.

MONSANTO'S REMEDIES:

[illegible]

Grower accepts the terms of the following NOTICE REQUIREMENT, LIMITED WARRANTY AND DISCLAIMER OF WARRANTY AND EXCLUSIVE LIMITED REMEDY by signing this Agreement and/or opening a bag of seed containing Monsanto Technology. If Grower does not agree to be bound by the conditions of purchase or use, Grower agrees to return the unopened bags to Grower's seed dealer.

NOTICE REQUIREMENTS:

NOTICE REQUIREMENTS: As a condition precedent to Grower or any other person with an interest in Grower's crop asserting any claim, action, or dispute against Monsanto and/or any seller of Seed containing Monsanto Technology regarding performance or non-performance of Monsanto Technology or the Seed in which it is contained, Grower must provide Monsanto a written, prompt, and timely notice regarding performance or non-performance of the Monsanto Technology and to the seller of any Seed (regarding performance or non-performance of the Seed) within sufficient time to allow an in-field inspection of the crops about which any controversy, claim, action, or dispute is being asserted. The notice will be timely only if it is delivered to Monsanto by the Grower not later than the date the Grower first observes the issue(s) regarding performance or non-performance of the Monsanto Technology and/or the Seed in which it is contained. The notice shall include a statement setting forth the nature of the claim, issue of the Monsanto Technology, and Seed hybrid or variety.

LIMITED WARRANTY AND DISCLAIMER OF WARRANTY:

LIMITED WARRANTY AND DISCLAIMER OF WARRANTIES: Monarcato warrants that the Monarcato Technologies (Monarcato) hereunder will perform as set forth in the TUG when used in accordance with directions. This warranty applies only to Monarcato Technologies contained in planting Seed that has been purchased from Monarcato and seed companies licensed by Monarcato or the seed company's authorized dealer or distributor. EXCEPT FOR THE EXPRESS WARRANTIES IN THE LIMITED WARRANTY SET FORTH ABOVE, MONARCATO MAKES NO OTHER WARRANTIES OF ANY KIND, AND DISCLAIMS ALL OTHER WARRANTIES, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE.

AMERS EXCLUSIVE LIMITED REMOVAL

THE EXCLUSIVE REMEDY OF THE GROWER AND THE LIMIT OF THE LIABILITY OF MONSANTO OR ANY SELLER FOR ANY AND ALL LOSSES, INJURY OR DAMAGES RESULTING FROM THE USE OR HANDLING OF SEED CONTAINING THE GENETIC MODIFICATION OF THE GROWER'S SEED IS THE REPLACEMENT OF THE SEED. ALL OTHER CLAIMS, INCLUDING BUT NOT LIMITED TO, CONTRACT, NEGLIGENCE, PRODUCT LIABILITY, STRICT LIABILITY, TORT, OR OTHERWISE, SHALL BE THE PRICE PAID BY THE GROWER FOR THE QUANTITY OF THE SEED INVOLVED OR, AT THE ELECTION OF MONSANTO OR THE SEED SELLER, THE REPLACEMENT OF THE SEED. IN NO EVENT SHALL MONSANTO OR ANY SELLER BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES.

Thank you for choosing our advanced technologies. We look forward to working with you in the future. If you have any questions regarding the Monsanto Technologies or this license, please call the Monsanto Customer Relations Center at: 1-800-ROUNDUP.

PLEASE MAIL THE SIGNED 2004 MONSANTO TECHNOLOGY AGREEMENT TO: Grower Licensing, Monsanto, 622 Emerson Road, Suite 150, St. Louis, MO 63141. This Monsanto Technology Stewardship Agreement became effective 1/1/04 and when Monsanto issues the Grower a license number in St. Louis, Missouri.

[illegible]

ALWAYS READ AND FOLLOW PESTICIDE LABEL DIRECTIONS. Roundup® agricultural herbicides will kill crops that do not contain the Roundup Ready® gene. Roundup®, Roundup Ready®, Bullseye®, Vistogon®, and the Vist Symbol are trademarks of Monsanto Technology LLC. Roundup Rewards® is a servicemark of Monsanto Technology LLC. © 2001 Monsanto Company. Roundup Rewards apply only to Roundup-branded and other specified Monsanto agricultural herbicides.

2003 MONSANTO TECHNOLOGY/STEWARDSHIP AGREEMENT

(Limited Use License)

FARM INFORMATION (Please print)

Please complete this section with your farm business information. The individuals and entities bound by the terms of this Agreement shall include the farm business listed below as well as all individuals or entities affiliated with, related to or having an ownership in such farm business. Your name must be filled in and must match the signature below.

Farm Business Name		Your Name (First/Middle/Last)		Dr.	Mr.	Mrs.	Ms.	Suffix (Jr., Sr., III, etc.)
Business Address		Business City		State		Zip		
Area Code	Business Phone	Fax						
E-mail Address								

What is your role on the farm? (check one)

- ☐ Owner
☐ Owner/Oper.
☐ Operator
☐ Farm Mgt.
☐ Farm/Dir.
☐ Other
 Describe:

BAR CODE

Form Number

04 0256544

PRIMARY SEED SUPPLIER

Business Name		City		State
Area Code	Phone			

THIS SPACE FOR MONSANTO OFFICE USE ONLY, PLEASE LEAVE THIS SECTION BLANK:

Lic. #: _____ Batch #: _____ Date: _____

This Monsanto Technology/Stewardship Agreement is entered into between you (Grower) and Monsanto Company (Monsanto) and consists of the terms on this page and on the reverse side of this page.

This Monsanto Technology/Stewardship Agreement grants you a limited license to use Roundup Ready® soybeans, YieldGard® Corn Borer corn and YieldGard® Corn Rootworm corn, Roundup Ready® corn, YieldGard® Corn Borer with Roundup Ready® corn, Roundup Ready® cotton, Bollgard® cotton, Bollgard® with Roundup Ready® cotton, Bollgard® with Roundup Ready® cotton, Roundup Ready® sugarcane and Roundup Ready® canola (Monsanto Technologies). This Agreement also contains your stewardship responsibilities and requirements associated with the Monsanto Technologies.

GOVERNING LAW:

This Agreement and the parties relationship shall be governed by the laws of the state of Missouri and the United States (other than the choice of law rules).

BINDING ARBITRATION FOR COTTON-RELATED CLAIMS MADE BY GROWER:

Any claim or action made or asserted by a cotton grower (or any other person claiming an interest in the grower's cotton crop) against Monsanto or any seller of cotton seed containing Monsanto Technology arising out of and/or in connection with this Agreement, or the sale or performance of the cotton seed containing Monsanto Technology other than claims arising under the patent laws of the United States must be resolved by binding arbitration. The parties acknowledge that the transaction involves interstate commerce. The parties agree that arbitration shall be conducted pursuant to the provisions of the Federal Arbitration Act, 9 U.S.C. Sec. 1 et seq. and administered under the Commercial Dispute Resolution Procedures established by the American Arbitration Association ("AAA"). The term "seller" as used throughout this Agreement refers to all parties involved in the production, development, distribution, and/or sale of the seed containing Monsanto Technology. In the event that a claim is not amicably resolved within 30 days of Monsanto's receipt of the grower's notice required pursuant to this Agreement, any party may initiate arbitration. The arbitration shall be heard in the capital city of the state of Missouri or in any other place as the parties decide by mutual agreement. When a demand for arbitration is filed by a party, the grower and Monsanto/seller shall each immediately pay one half of the AAA filing fee. In addition, grower and Monsanto/seller shall each pay one half of AAA's administrative and arbitrator fees as those fees are incurred. The arbitrator(s) shall have the power to apportion the ultimate responsibility for all AAA fees in the final award. The arbitration proceedings and results are to remain confidential and are not to be disclosed without the written agreement of all parties, except to the extent necessary to effectuate the decision or award of the arbitrator(s) or as otherwise required by law.

FORUM SELECTION FOR NON-COTTON-RELATED CLAIMS MADE BY GROWER AND ALL OTHER CLAIMS. THE PARTIES CONSENT TO THE SOLE AND EXCLUSIVE JURISDICTION AND VENUE OF THE U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF MISSOURI, EASTERN DIVISION, AND THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS, MISSOURI, (any lawsuit must be filed in St. Louis, MO) FOR ALL CLAIMS AND DISPUTES ARISING OUT OF OR CONNECTED IN ANY WAY WITH THIS AGREEMENT AND THE USE OF THE SEED OR THE MONSANTO TECHNOLOGIES EXCEPT FOR COTTON-RELATED CLAIMS MADE BY GROWER.

THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION FOR COTTON RELATED CLAIMS PURSUANT TO THE PROVISIONS OF THE FEDERAL ARBITRATION ACT, 9 U.S.C. 1 ET SEQ., WHICH MAY BE ENFORCED BY THE PARTIES.

SIGNATURE & DATE REQUIRED

Name _____ Date _____
 (The Agreement continues below and on the reverse side of this page.)

YOU AGREE:

- To channel grain produced to appropriate markets as necessary to prevent movement to markets when the grain has not yet received regulatory approval for import.
- To implement an Insect Resistance Management program as specified in the applicable Bollgard cotton and YieldGard corn sections of the most recent Technology Use Guide (TUG) and to cooperate and comply with Insect Resistance Management programs.
- To use Seed containing Monsanto Technologies solely for planting a single commercial crop.
- Not to supply any Seed containing patented Monsanto Technologies to any other person or entity for planting. Not to save any crop produced from this Seed for planting and not to supply Seed produced from this Seed to anyone for planting.
- Not to use or to allow others to use Seed containing patented Monsanto Technologies Seed or for crop breeding, research, generation of herbicide registration data, or seed production.
- To use on Roundup Ready crops only a Roundup® agricultural herbicide or other authorized non-selective herbicide which could not be used in the absence of the Roundup Ready gene (see TUG for details on authorized non-selective products). Use of any selective herbicide labeled for the same crop without the Roundup Ready gene is not restricted by this Agreement. MONSANTO DOES NOT MAKE ANY REPRESENTATIONS, WARRANTIES OR RECOMMENDATIONS CONCERNING THE USE OF PRODUCTS MANUFACTURED OR MARKETED BY OTHER COMPANIES WHICH ARE LABELED FOR USE IN ROUNDUP READY CROPS. MONSANTO SPECIFICALLY DISCLAIMS ALL RESPONSIBILITY FOR THE USE OF THESE PRODUCTS IN ROUNDUP READY CROPS. ALL QUESTIONS AND COMPLAINTS ARISING FROM THE USE OF PRODUCTS MANUFACTURED OR MARKETED BY OTHER COMPANIES SHOULD BE DIRECTED TO THOSE COMPANIES.
- To read and follow the applicable sections of the TUG, which is incorporated into and is a part of this Agreement, for specific requirements relating to the terms of this Agreement, and to abide by and be bound by the terms of the TUG as it may be amended from time to time.
- To acquire Seed containing these Monsanto Technologies only from a seed company with technology license(s) from Monsanto or from a licensed company's authorized dealer.
- To pay any applicable technology fees for cotton, canola, and sugarcane traits as well as the purchase price of corn and soybeans, which is in part a Monsanto royalty. (Some seed company licensees may continue to charge a technology fee to growers on soybean seed and corn seed).

* Final regulatory approvals are pending for YieldGard Corn Rootworm and Bollgard II. These products are not currently registered with the U.S. Environmental Protection Agency and are not currently available for sale or commercial use. UPON APPROVAL, THIS MONSANTO TECHNOLOGY/STEWARDSHIP AGREEMENT (LIMITED USE LICENSE) WILL BE USED AND SHALL GOVERN THE TERMS AND CONDITIONS FOR THE USE OF THOSE TECHNOLOGIES.



MONSANTO COPY

YOU RECEIVE FROM MONSIEUR COMPANY

- A limited use license to purchase and plant seed containing Monsanto Technologies ("Seed") and apply Roundup agricultural herbicides and other authorized non-selective herbicides over the top of Roundup Ready crops (see TLU for details regarding authorized non-selective products). Monsanto retains ownership of the Monsanto Technologies including the genes (for example, the Roundup Ready gene) and the gene technologies. Grower receives the right to use the Monsanto Technologies subject to the conditions specified in this Agreement.
- Enrollment in the value package called "Roundup Rewards", designed to bring increased benefits to you.
 - A limited use license to prepare and apply on glyphosate-tolerant soybeans, cotton, or corn crops (or have others prepare and apply) tank mixes of, or sequentially apply (or have others sequentially apply), Roundup agricultural herbicides or other glyphosate herbicides labeled for use on those crops with quinclorac, clopyralid, sethoxydim, flazasulfuron, and/or fenoxaprop to control volunteer Roundup Ready corn in Grower's crops for the 2009 growing season. However, neither Grower nor a third party may utilize any type of co-pack or premix of glyphosate plus one or more of the above-identified active ingredients in the preparation of a tank mix.

YOU UNDERSTAND:

• **Harvesting:** Grain/forage commodities harvested from Roundup Ready corn, YieldGard Corn Borer with Roundup Ready corn, Roundup Ready canola and Roundup Ready sugarbeets are approved for U.S. food and feed use, but not yet approved in certain export markets where approval is not certain to be received before the end of 2003. As a result, the Grower must direct those grain/forage commodities to the following approved market options: feeding on farm, use in domestic feed lots, elevators that agree to accept the grain, or other approved uses in domestic markets only. The American Seed Trade Association web site (www.amseed.org) includes a list of grain feeders' positions on accepting Roundup Ready corn. For additional information on grain market options, call 1-800-768-6307.

• **Regulatory approvals:** Monsanto Technologies may only be used within the United States where the products have been approved for use by all required governmental agencies.

• **Insect Resistance Management (IRM):** When planting any YieldGard or Bollgard product, you must implement an IRM program including planting a non-Bt refuge according to the size and distance guidelines specified in the Bollgard cotton and YieldGard corn sections of the most recent Monsanto TUG including any supplemental amendments. You may lose your limited use license to use these products if you fail to follow the IRM program required by this Agreement.

• **Pollen Flow:** You should refer to the TUG for information on crop stewardship regarding the potential movement of pollen to neighboring crops.

• **Patent Information:** Monsanto Technologies are protected under U.S. patent law. Monsanto licenses the Grower, under applicable patents owned or licensed by Monsanto, to use Monsanto Technologies subject to the conditions listed in this Agreement. This license does not authorize you to plant Seed in the United States that has been purchased in another country or plant Seed in another country that has been purchased in the United States.

GENERAL TERMS:

Grower's rights may not be transferred to anyone else without the written consent of Monsanto. If Grower's rights are transferred with Monsanto's consent or by operation of law, this Agreement is binding on the person or entity receiving the transferred rights.

Grower violates the terms of this Agreement, in addition to other remedies, Grower's rights pursuant to this Agreement will terminate immediately, and Grower and any entity owned or controlled by Grower forfeits any right to obtain an Agreement in the future and Grower's violation may result in infringement of one or more of the patents. Grower agrees to pay Monsanto and the licensed Monsanto Technology provider(s) their attorney's fees and costs of enforcing this Agreement. If the Agreement is terminated, Grower will no longer have a right to purchase or use Seed containing Monsanto Technologies. Any obligations that arose before termination will continue in effect. In the event that Grower saves, supplies, sells or acquires seed for planting in violation of this Agreement, Grower will be liable to Monsanto for patent infringement. In addition, Grower agrees that Monsanto will not suffer damages for breach of contract, that the measure of damages is difficult to determine, and as a result Monsanto has the right to liquidated damages to recover Monsanto's losses as just compensation and not as a penalty that shall be equal to the gross revenue from such seed, grain, or fiber produced from infringing use of Seed calculated based upon the Chicago Board of Trade price for the applicable grain/commodity as of August 1st of the year in question and the USDA stated U.S. average price for such crop in any county Grower grows the crop for the year in question). Grower consents to Monsanto's review of Farm Service Agency crop reporting information on any land farmed by Grower including Forms 578 and corresponding aerial photographs, Risk Management Agency claim documentation, and dealer/retailer invoices for Grower's seed and chemical transactions. Grower agrees to allow Monsanto to examine and copy any of Grower's records and receipts that could be relevant to Grower's performance of this Agreement.

grower acknowledges that grower has received a copy of Monsanto's TUG. To obtain additional copies of the Monsanto TUG, contact Monsanto at 1-800-765-6387. This Agreement will remain in effect until either you or Monsanto choose to terminate the Agreement. Once you enroll, information regarding new and existing Monsanto Technologies and any new terms will be mailed to you each year. Your continuing use of Monsanto Technologies after receipt of any new terms constitutes your agreement to be bound by the new terms. If any provision of this Agreement is determined to be void or unenforceable, the remaining provisions shall remain in full force and effect.

Grower accepts the terms of the following NOTICE REQUIREMENT, LIMITED WARRANTY AND EXCLUSIVE LIMITED REMEDY by signing this Agreement and/or opening a bag of seed containing Monsanto Technology. If Grower does not agree to be bound by the conditions of purchase or use, Grower agrees to return the unopened bags to Grower's seed dealer.

NOTICE REQUIREMENT:

a condition precedent to Grower or any other person with an interest in Grower's crop asserting any claim, action, or dispute against Monsanto and/or any seller of Seed containing Monsanto Technology regarding performance or non-performance of Monsanto Technologies or the Seed in which it is contained, Grower must provide Monsanto a written, prompt, and timely notice (regarding performance or non-performance of the Monsanto Technologies) and to the seller of any Seed (regarding performance or non-performance of the Seed) within sufficient time to allow an in-field inspection of the crop(s) about which any controversy, claim, action, or dispute is being asserted. The notice will be timely only if it is delivered 5 days or less after the Grower first observes the issue(s) regarding performance or non-performance of the Monsanto Technology and/or the Seed in which it is contained. The notice shall include a statement setting forth the nature of the claim, name of the Monsanto Technology, and Seed hybrid or variety.

LIMITED WARRANTY AND DISCLAIMER OF WARRANTIES:

Monsanto warrants that the Monsanto Technologies licensed hereunder will perform as set forth in the TUG when used in accordance with directions. This warranty applies only to Monsanto Technologies contained in planting material that has been purchased from Monsanto and seed companies licensed by Monsanto or the seed company's authorized dealers or distributors. EXCEPT FOR THE EXPRESS WARRANTIES IN THE LIMITED WARRANTY SET FORTH ABOVE, MONSANTO MAKES NO OTHER WARRANTIES OF ANY KIND, AND DISCLAIMS ALL OTHER WARRANTIES, WHETHER ORAL, OR WRITTEN, EXPRESS OR IMPLIED INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE.

71 LUSTIVE LIMITED REMEDY:

THE EXCLUSIVE REMEDY OF THE GROWER AND THE LIMIT OF THE LIABILITY OF MONSANTO OR ANY SELLER FOR ANY AND ALL LOSSES, INJURY OR DAMAGES RESULTING FROM THE USE OR HANDLING OF SEED CONTAINING MONSANTO TECHNOLOGY (INCLUDING CLAIMS BASED IN CONTRACT, NEGLIGENCE, PRODUCT LIABILITY, STRICT LIABILITY, TORT, OR OTHERWISE) SHALL BE THE PRICE PAID BY THE GROWER FOR THE QUANTITY OF THE SEED PURCHASED OR, AT THE ELECTION OF MONSANTO OR THE SEED SELLER, THE REPLACEMENT OF THE SEED. IN NO EVENT SHALL MONSANTO OR ANY SELLER BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES.

Thank you for choosing our advanced technologies. We look forward to working with you in the future. If you have any questions regarding the Monsanto Technologies, please call the Monsanto Customer Relations Center 1-800-ROUNDUP.

EASE HAS THE SIGNED 2009 MONSANTO TECHNOLOGY AGREEMENT TO: Grower Licensing, Monsanto, 622 Emerson Road, Suite 150, St. Louis, MO 63141

[illegible]

ALWAYS READ AND FOLLOW PESTICIDE LABEL DIRECTIONS. Roundup® agricultural herbicides will kill crops that do not contain the Roundup Ready® gene. Roundup®, Roundup Ready®, Bolgard®, YieldGard®, and the Vine logo are trademarks of Monsanto Technology LLC. Roundup Rewards™ is a servicemark of Monsanto Technology LLC. © 2001 Monsanto Company. Roundup Rewards applies only to Roundup-branded and other specified Monsanto agricultural herbicides.

2002 MONSANTO TECHNOLOGY/STEWARDSHIP AGREEMENT*(Limited Use License)***FARM INFORMATION**

Please complete this section with your farm business information. The individuals and entities bound by the terms of this Agreement shall include the farm business listed below as well as all individuals or entities affiliated with, related to or having an ownership in such farm business. Your name must be filled in and must match the signature below.

☐ Dr. ☐ Mr. ☐ Mrs. ☐ Ms.

Farm Business Name

Your Name (First/Middle/Last)

Business Address

Business City

State

Zip

Area Code

Business Phone

Area Code

FAX

E-mail Address

What is your role on the farm?
(Check One)

- ☐ Owner
☐ Owner/Oper.
☐ Operator
☐ Farm Mgr.
☐ Farmer/Dealer
☐ Other

Describe

FORM NUMBER

030072290**CROP INFORMATION FOR THE 2002 GROWING SEASON**

Please fill in the planned acres and type of seed you are interested in for the 2002 growing season, so we can keep you updated on important product information. (This section is NOT a purchase commitment or contract.)

TOTAL Crop Acres Planned for 2002 (All Varieties)

Soybeans _____ acres

Cotton _____ acres

Corn _____ acres

Rice _____ acres

Wheat _____ acres

Sugarbeets _____ acres

Canola _____ acres

TOTAL Planned Technology Acres for 2002

Roundup Ready® Soybeans _____ acres

Bollgard® Cotton _____ acres

Roundup Ready Cotton _____ acres

Bollgard with Roundup Ready Cotton _____ acres

YieldGard® Corn Borer Corn _____ acres

Roundup Ready Corn _____ acres

YieldGard Corn Borer with Roundup Ready Corn _____ acres

Roundup Ready Sugarbeets _____ acres

Roundup Ready Canola _____ acres

PRIMARY RETAILER/DEALER

Business Name

Area Code

Phone

City

State

CROP CONSULTANT INFORMATION

Business Name

Contact Name (First/Middle/Last)

Mailing Address

City

State

Zip

Area Code

Business Phone

Area Code

FAX

TECHNOLOGY CARDS

Upon completion and submission of this page, you will receive a Technology Card with your name and individual Technology ID number. If more than one individual will be purchasing under this Agreement, you may request additional cards. These cards should be presented when purchasing MONSANTO seed technologies and for redeeming benefits offered under Roundup Rewards.

☐ Please send me _____ additional cards.
SIGNATURE & DATE REQUIRED

I acknowledge that I have read and understood the terms and conditions of this Agreement, including the Monsanto Technology Use Guide and the provisions related to the Disclaimer of Warranties and Exclusive Remedy. If I do not agree to these terms, I agree to return the unopened bags of seed to my dealer per my dealer's return policy. The undersigned acknowledges that he/she has the authority to bind the individual and/or entities subject to this Agreement.

Must be signed by the customer listed above.

Date

MONSANTO COPY

2001 MONSANTO TECHNOLOGY AGREEMENT

FARM INFORMATION

Please complete this section with your farm business information. The individuals and entities bound by the terms of this Agreement shall include the farm business listed below as well as all individuals or entities affiliated with, related to or having an ownership in such farm business. Your name must be filled in and must match the signature below.

☐ Dr. ☐ Mr. ☐ Mrs. ☐ Ms.

Farm Business Name

Your Name (First/Middle/Last)

Business Address

Business City

State

Zip

Area Code

Business Phone

Area Code

FAX

E-mail Address

What is your role on the farm?
(Check One)

- ☐ Owner
☐ Owner/Oper.
☐ Operator
☐ Farm Mgt.
☐ Farmer/Dealer
☐ Other

Describe

FORM NUMBER

020213976

CROP INFORMATION FOR THE 2001 GROWING SEASON

Please fill in the planned acres and type of seed you are interested in for the 2001 growing season, so we can keep you updated on important product information. (This section is NOT a purchase commitment or contract.)

TOTAL Crop Acres Planned for 2001
(All Varieties)

TOTAL Planned Technology Acres for 2001

Soybeans _____ acres
Corn _____ acres
Rice _____ acres
Wheat _____ acres
Sugarbeets _____ acres
Canola _____ acres

Roundup Ready[®] Soybeans _____ acres
YieldGard[®] Insect Protected Corn _____ acres
Roundup Ready Corn _____ acres
YieldGard/Roundup Ready Corn _____ acres
Roundup Ready Sugarbeets _____ acres
Roundup Ready Canola _____ acres

PRIMARY AG CHEMICAL RETAILER

Business Name

Area Code

Phone

City

State

CROP CONSULTANT INFORMATION

Business Name

Contact Name (First/Middle/Last)

Mailing Address

City

State

Zip

Area Code

Business Phone

Area Code

FAX

PLEASE SEND ME ADDITIONAL TECHNOLOGY CARDS

Upon completion and submission of this page, you will receive a Technology Card with your name and individual Technology ID number. If more than one individual will be purchasing under this Agreement, you may request additional cards. These cards should be presented when purchasing MONSANTO gene technologies and for redeeming benefits offered under Roundup Rewards.

☐ Please send me _____ additional cards.

SIGNATURE & DATE REQUIRED

I acknowledge that I have read and understand the terms and conditions of this Agreement, including the Monsanto Technology Use Guide and the provisions related to the Disclaimer of Warranties and Exclusive Remedy. If you do not agree to these terms, you should return the unopened bags of seed to your dealer. The undersigned acknowledges that he/she has the authority to bind the individuals and/or entities subject to this Agreement.

Must be signed by the customer listed above.

Date

MONSANTO COPY

2001 MONSANTO TECHNOLOGY AGREEMENT

We appreciate your interest in Monsanto's advanced technologies and the exciting benefits they offer. This Monsanto Technology Agreement covers Roundup Ready® soybeans, YieldGard® corn, Roundup Ready® corn, Roundup Ready® corn with YieldGard®, Roundup Ready® sugarbeets and Roundup Ready® canola.

For your convenience, this Agreement remains in effect until either you or Monsanto choose to terminate the Agreement. Once you enroll, information regarding new and existing technologies and any new terms will be mailed to you each year. Conforming to use Monsanto's technologies after receipt of any new terms constitutes your agreement to be bound by the terms. Additionally, by completing this Agreement, you are automatically enrolled in the value package called Roundup Rewards™, designed to bring increased benefits to you.

YOU RECEIVE:

- Opportunity to purchase and plant seed containing these technologies under this Agreement.
- Opportunity to participate in Roundup Rewards for applicable crop(s).

YOU UNDERSTAND:

- These Monsanto gene technologies are protected under U.S. patent law. Monsanto licenses the grower, under applicable patents owned or licensed by Monsanto, to use these technologies under the conditions listed below. This Agreement only covers the United States, and does not authorize planting of seed in the United States which has been purchased in another country or planting of seed in another country which has been purchased in the United States.
- Grain/commodities harvested from Roundup Ready corn, Roundup Ready corn with YieldGard, Roundup Ready canola and Roundup Ready sugarbeets are approved for U.S. food and feed use, but not yet approved in certain export markets where approval is not likely to be received before the end of 2001. As a result, the grower is restricted from introducing such grain/commodities into channels of trade where the potential for export to such markets exists. The grower must channel such grain/commodities for feeding on farm, use in domestic feed lots or other uses in domestic markets only. Growers should refer to Monsanto's Technology Use Guide for information on crop stewardship regarding the potential movement of pollen to neighboring crops*. For assistance in locating domestic outlets for corn grain/commodities, view the ASIA web site at www.asiaseed.org or contact Monsanto at 1-800-768-6387.
- The gene technologies referenced in this Agreement can only be used in locations where the products have been approved for use by all required governmental agencies.

YOU AGREE:

- To use the seed containing Monsanto gene technologies solely for planting a single commercial crop.
- Not to supply any of this seed to any other person or entity for planting, and not to save any crop produced from this seed for replanting, or supply seed produced from this seed to anyone for replanting.
- Neither to use this seed nor to provide it to anyone else to use for crop breeding, research, generation of herbicide registration data or seed production.
- To use in Roundup Ready crops only a Roundup® brand or other herbicide which has been registered for use by and has a label for use in the particular Roundup Ready crop approved by all required governmental agencies. MONSANTO DOES NOT MAKE ANY REPRESENTATIONS, WARRANTIES OR RECOMMENDATIONS CONCERNING THE USE OF PRODUCTS MANUFACTURED OR MARKED BY OTHER COMPANIES WHICH ARE LABELED FOR USE IN ROUNDUP READY CROPS. MONSANTO SPECIFICALLY DISCLAIMS ALL RESPONSIBILITY FOR THE USE OF THESE PRODUCTS IN ROUNDUP READY CROPS. ALL QUESTIONS AND COMPLAINTS ARISING FROM THE USE OF PRODUCTS MANUFACTURED OR MARKED BY OTHER COMPANIES SHOULD BE DIRECTED TO THAT COMPANY.
- To purchase seed containing these gene technologies only from a seed company with required technology license(s) from Monsanto and to pay the applicable Technology Fee for the particular product being purchased.
- To implement an Insect Resistance Management program as specified in the applicable YieldGard corn sections of the Technology Use Guide and to comply with Insect Resistance Management programs and research.*
- To channel grain produced to domestic use as necessary to prevent movement to markets where the grain is not yet approved for import.

GENERAL CONDITIONS:

The grower's rights may not be transferred to anyone else without written consent of Monsanto. If the grower's rights are transferred with Monsanto's consent or by operation of law, this Agreement is binding on the person or entity receiving the transferred rights.

If the grower violates the terms of this Agreement, in addition to other remedies available to the technology provider(s), the grower's rights under this Agreement will terminate immediately and the grower forfeits any right to obtain an Agreement in the future and that violation may result in infringement of one or more of the patents that relate to that product. The grower agrees that the technology provider(s) are entitled to recover their full amount of legal fees and other costs of enforcing this Agreement. If the Agreement is terminated, the grower will no longer have a right under this Agreement to purchase seed containing these technologies, however, any obligations that arose before termination will continue in effect. In the event that the grower saves, supplies, sells or acquires seed for planting in violation of this Agreement and license restriction, in addition to all remedies for patent infringement and/or other remedies available to the technology provider(s), the grower agrees that damages will include a claim for liquidated damages that shall be equal to the gross revenue from the seed for grain production (calculated based upon the Chicago Board of Trade price for the applicable grain commodity as of August 1st of the year in question and the USDA stated U.S. average yield for such crop for the year in question). Grower consents to Monsanto review of Farm Service Agency crop reporting information including Forms 578 and corresponding aerial photographs and dealer/retailer invoices for seed and chemical transactions.

Grower acknowledges that grower has received a copy of Monsanto's Technology Use Guide and has read and agrees to abide by and be bound by the terms of this Guide.

Monsanto retains ownership of the licensed genes (for example the Roundup Ready gene), and the gene technologies, and the grower receives the right to use the licensed genes and technology as specified in this Agreement.

Grower is deemed to have accepted the terms of the following LIMIT OF WARRANTY AND LIABILITY upon signing this Agreement and/or opening a bag of seed containing Monsanto gene technology, which terms may not be varied by any oral or written agreement.

If grower does not agree to be bound by the following conditions of purchase or use, he/she should return the unopened bags to his/her seed dealer.

NOTICE REQUIREMENT:

As a condition precedent to the grower, or any other person with an interest in grower's crop, asserting any controversy, claim, action, or dispute against Monsanto and/or any seller of seed containing Monsanto's gene technologies regarding performance or non-performance of the gene technologies or the seed in which it is contained, the grower must provide prompt and timely notice to Monsanto (regarding performance or non-performance of the gene technologies) and/or the seller of any seed (regarding performance or non-performance of the seed) within sufficient time to allow an in-field inspection of the crop(s) about which any controversy, claim, action, or dispute is being asserted. For purposes of this Agreement, such notice shall be insufficient if it is provided more than 15 days after the issue(s) regarding performance or non-performance of the gene technology and/or the seed in which it is contained is first observed. The notice shall include a statement setting forth the nature of the claim, and the technology and/or seed variety in question.

Monsanto warrants that the Monsanto gene technology licensed hereunder will perform as set forth in the Monsanto Technology Use Guide when used in accordance with directions. This warranty applies only to Monsanto gene technology contained in planting seed that has been purchased from a seed company licensed by Monsanto, or such seed company's authorized dealers or distributors, and planted from the original sealed bag. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH ABOVE, MONSANTO MAKES NO OTHER WARRANTIES OF ANY KIND, AND DISCLAIMS ALL OTHER WARRANTIES, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED. THERE IS NO IMPLIED WARRANTY OF FITNESS FOR PARTICULAR PURPOSE OR MERCHANTABILITY.

THE EXCLUSIVE REMEDY OF THE GROWER AND THE LIMIT OF THE LIABILITY OF MONSANTO OR ANY SELLER FOR ANY AND ALL LOSSES, INJURY OR DAMAGES RESULTING FROM THE USE OR HANDLING OF A PRODUCT CONTAINING MONSANTO'S GENE TECHNOLOGY (INCLUDING CLAIMS BASED IN CONTRACT, NEGLIGENCE, PRODUCT LIABILITY, STRICT LIABILITY, OTHER TORT OR OTHERWISE) SHALL BE THE PRICE PAID BY THE GROWER FOR THE QUANTITY OF SUCH PRODUCT INVOLVED, OR, AT THE ELECTION OF MONSANTO OR ANY SELLER, THE REPLACEMENT OF SUCH QUANTITY, OR IF NOT ACQUIRED BY PURCHASE, REPLACEMENT OF SUCH QUANTITY. IN NO EVENT SHALL MONSANTO OR ANY SELLER BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES.

THIS AGREEMENT IS GOVERNED BY THE LAWS OF THE STATE OF MISSOURI AND THE UNITED STATES (OTHER THAN THE CHOICE OF LAW RULES). THE PARTIES CONSENT TO THE EXCLUSIVE JURISDICTION AND VENUE OF THE U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF MISSOURI, EASTERN DIVISION, AND THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS, STATE OF MISSOURI, FOR ALL DISPUTES ARISING OUT OF OR CONNECTED IN ANY WAY WITH THE USE OF THE SEED OR THE TECHNOLOGIES AS PROVIDED THROUGH THIS AGREEMENT OR ITS RELATED PARTS.

If any provision of this Agreement is determined to be void or unenforceable, the remaining provisions shall remain in full force and effect.

Thank you for choosing our advanced technologies. We look forward to working with you in the future.

If you have any questions regarding the technologies from Monsanto, please call the Monsanto Customer Relations Center at: 1-800-ROUNDUP.

CASE MAIL THE SIGNED 2001 MONSANTO TECHNOLOGY AGREEMENT TO: Monsanto Grower Licensing, P.O. Box 3469, Mantoloking, MN 55565

* Refer to the applicable section of the Monsanto Technology Use Guide, which is part of this Agreement, for specifics relating to these terms. If you have not received a copy of the Monsanto Technology Use Guide, contact Monsanto at 1-800-768-6387.

* The Licensed U.S. patents include: for YieldGard® corn - 5,594,899; 5,593,892; 5,593,893; 5,594,897; 5,594,898; 5,594,899; 5,594,900; 5,594,901; 5,594,902; 5,594,903; 5,594,904; 5,594,905; 5,594,906; 5,594,907; 5,594,908; 5,594,909; 5,594,910; 5,594,911; 5,594,912; 5,594,913; 5,594,914; 5,594,915; 5,594,916; 5,594,917; 5,594,918; 5,594,919; 5,594,920; 5,594,921; 5,594,922; 5,594,923; 5,594,924; 5,594,925; 5,594,926; 5,594,927; 5,594,928; 5,594,929; 5,594,930; 5,594,931; 5,594,932; 5,594,933; 5,594,934; 5,594,935; 5,594,936; 5,594,937; 5,594,938; 5,594,939; 5,594,940; 5,594,941; 5,594,942; 5,594,943; 5,594,944; 5,594,945; 5,594,946; 5,594,947; 5,594,948; 5,594,949; 5,594,950; 5,594,951; 5,594,952; 5,594,953; 5,594,954; 5,594,955; 5,594,956; 5,594,957; 5,594,958; 5,594,959; 5,594,960; 5,594,961; 5,594,962; 5,594,963; 5,594,964; 5,594,965; 5,594,966; 5,594,967; 5,594,968; 5,594,969; 5,594,970; 5,594,971; 5,594,972; 5,594,973; 5,594,974; 5,594,975; 5,594,976; 5,594,977; 5,594,978; 5,594,979; 5,594,980; 5,594,981; 5,594,982; 5,594,983; 5,594,984; 5,594,985; 5,594,986; 5,594,987; 5,594,988; 5,594,989; 5,594,990; 5,594,991; 5,594,992; 5,594,993; 5,594,994; 5,594,995; 5,594,996; 5,594,997; 5,594,998; 5,594,999; 5,600,000; 5,600,001; 5,600,002; 5,600,003; 5,600,004; 5,600,005; 5,600,006; 5,600,007; 5,600,008; 5,600,009; 5,600,010; 5,600,011; 5,600,012; 5,600,013; 5,600,014; 5,600,015; 5,600,016; 5,600,017; 5,600,018; 5,600,019; 5,600,020; 5,600,021; 5,600,022; 5,600,023; 5,600,024; 5,600,025; 5,600,026; 5,600,027; 5,600,028; 5,600,029; 5,600,030; 5,600,031; 5,600,032; 5,600,033; 5,600,034; 5,600,035; 5,600,036; 5,600,037; 5,600,038; 5,600,039; 5,600,040; 5,600,041; 5,600,042; 5,600,043; 5,600,044; 5,600,045; 5,600,046; 5,600,047; 5,600,048; 5,600,049; 5,600,050; 5,600,051; 5,600,052; 5,600,053; 5,600,054; 5,600,055; 5,600,056; 5,600,057; 5,600,058; 5,600,059; 5,600,060; 5,600,061; 5,600,062; 5,600,063; 5,600,064; 5,600,065; 5,600,066; 5,600,067; 5,600,068; 5,600,069; 5,600,070; 5,600,071; 5,600,072; 5,600,073; 5,600,074; 5,600,075; 5,600,076; 5,600,077; 5,600,078; 5,600,079; 5,600,080; 5,600,081; 5,600,082; 5,600,083; 5,600,084; 5,600,085; 5,600,086; 5,600,087; 5,600,088; 5,600,089; 5,600,090; 5,600,091; 5,600,092; 5,600,093; 5,600,094; 5,600,095; 5,600,096; 5,600,097; 5,600,098; 5,600,099; 5,600,100; 5,600,101; 5,600,102; 5,600,103; 5,600,104; 5,600,105; 5,600,106; 5,600,107; 5,600,108; 5,600,109; 5,600,110; 5,600,111; 5,600,112; 5,600,113; 5,600,114; 5,600,115; 5,600,116; 5,600,117; 5,600,118; 5,600,119; 5,600,120; 5,600,121; 5,600,122; 5,600,123; 5,600,124; 5,600,125; 5,600,126; 5,600,127; 5,600,128; 5,600,129; 5,600,130; 5,600,131; 5,600,132; 5,600,133; 5,600,134; 5,600,135; 5,600,136; 5,600,137; 5,600,138; 5,600,139; 5,600,140; 5,600,141; 5,600,142; 5,600,143; 5,600,144; 5,600,145; 5,600,146; 5,600,147; 5,600,148; 5,600,149; 5,600,150; 5,600,151; 5,600,152; 5,600,153; 5,600,154; 5,600,155; 5,600,156; 5,600,157; 5,600,158; 5,600,159; 5,600,160; 5,600,161; 5,600,162; 5,600,163; 5,600,164; 5,600,165; 5,600,166; 5,600,167; 5,600,168; 5,600,169; 5,600,170; 5,600,171; 5,600,172; 5,600,173; 5,600,174; 5,600,175; 5,600,176; 5,600,177; 5,600,178; 5,600,179; 5,600,180; 5,600,181; 5,600,182; 5,600,183; 5,600,184; 5,600,185; 5,600,186; 5,600,187; 5,600,188; 5,600,189; 5,600,190; 5,600,191; 5,600,192; 5,600,193; 5,600,194; 5,600,195; 5,600,196; 5,600,197; 5,600,198; 5,600,199; 5,600,200; 5,600,201; 5,600,202; 5,600,203; 5,600,204; 5,600,205; 5,600,206; 5,600,207; 5,600,208; 5,600,209; 5,600,210; 5,600,211; 5,600,212; 5,600,213; 5,600,214; 5,600,215; 5,600,216; 5,600,217; 5,600,218; 5,600,219; 5,600,220; 5,600,221; 5,600,222; 5,600,223; 5,600,224; 5,600,225; 5,600,226; 5,600,227; 5,600,228; 5,600,229; 5,600,230; 5,600,231; 5,600,232; 5,600,233; 5,600,234; 5,600,235; 5,600,236; 5,600,237; 5,600,238; 5,600,239; 5,600,240; 5,600,241; 5,600,242; 5,600,243; 5,600,244; 5,600,245; 5,600,246; 5,600,247; 5,600,248; 5,600,249; 5,600,250; 5,600,251; 5,600,252; 5,600,253; 5,600,254; 5,600,255; 5,600,256; 5,600,257; 5,600,258; 5,600,259; 5,600,260; 5,600,261; 5,600,262; 5,600,263; 5,600,264; 5,600,265; 5,600,266; 5,600,267; 5,600,268; 5,600,269; 5,600,270; 5,600,271; 5,600,272; 5,600,273; 5,600,274; 5,600,275; 5,600,276; 5,600,277; 5,600,278; 5,600,279; 5,600,280; 5,600,281; 5,600,282; 5,600,283; 5,600,284; 5,600,285; 5,600,286; 5,600,287; 5,600,288; 5,600,289; 5,600,290; 5,600,291; 5,600,292; 5,600,293; 5,600,294; 5,600,295; 5,600,296; 5,600,297; 5,600,298; 5,600,299; 5,600,300; 5,600,301; 5,600,302; 5,600,303; 5,600,304; 5,600,305; 5,600,306; 5,600,307; 5,600,308; 5,600,309; 5,600,310; 5,600,311; 5,600,312; 5,600,313; 5,600,314; 5,600,315; 5,600,316; 5,600,317; 5,600,318; 5,600,319; 5,600,320; 5,600,321; 5,600,322; 5,600,323; 5,600,324; 5,600,325; 5,600,326; 5,600,327; 5,600,328; 5,600,329; 5,600,330; 5,600,331; 5,600,332; 5,600,333; 5,600,334; 5,600,335; 5,600,336; 5,600,337; 5,600,338; 5,600,339; 5,600,340; 5,600,341; 5,600,342; 5,600,343; 5,600,344; 5,600,345; 5,600,346; 5,600,347; 5,600,348; 5,600,349; 5,600,350; 5,600,351; 5,600,352; 5,600,353; 5,600,354; 5,600,355; 5,600,356; 5,600,357; 5,600,358; 5,600,359; 5,600,360; 5,600,361; 5,600,362; 5,600,363; 5,600,364; 5,600,365; 5,600,366; 5,600,367; 5,600,368; 5,600,369; 5,600,370; 5,600,371; 5,600,372; 5,600,373; 5,600,374; 5,600,375; 5,600,376; 5,600,377; 5,600,378; 5,600,379; 5,600,380; 5,600,381; 5,600,382; 5,600,383; 5,600,384; 5,600,385; 5,600,386; 5,600,387; 5,600,388; 5,600,389; 5,600,390; 5,600,391; 5,600,392; 5,600,393; 5,600,394; 5,600,395; 5,600,396; 5,600,397; 5,600,398; 5,600,399; 5,600,400; 5,600,401; 5,600,402; 5,600,403; 5,600,404; 5,600,405; 5,600,406; 5,600,407; 5,600,408; 5,600,409; 5,600,410; 5,600,411; 5,600,412; 5,600,413; 5,600,414; 5,600,415; 5,600,416; 5,600,417; 5,600,418; 5,600,419; 5,600,420; 5,600,421; 5,600,422; 5,600,423; 5,600,424; 5,600,425; 5,600,426; 5,600,427; 5,600,428; 5,600,429; 5,600,430; 5,600,431; 5,600,432; 5,600,433; 5,600,434; 5,600,435; 5,600,436; 5,600,437; 5,600,438; 5,600,439; 5,600,440; 5,600,441; 5,600,442; 5,600,443; 5,600,444; 5,600,445; 5,600,446; 5,600,447; 5,600,448; 5,600,449; 5,600,450; 5,600,451; 5,600,452; 5,600,453; 5,600,454; 5,600,455; 5,600,456; 5,600,457; 5,600,458; 5,600,459; 5,600,460; 5,600,461; 5,600,462; 5,600,463; 5,600,464; 5,600,465; 5,600,466; 5,600,467; 5,600,468; 5,600,469; 5,600,470; 5,600,471; 5,600,472; 5,600,473; 5,600,474; 5,600,475; 5,600,476; 5,600,477; 5,600,478; 5,600,479; 5,600,480; 5,600,481; 5,600,482; 5,600,483; 5,600,484; 5,600,485; 5,600,486; 5,600,487; 5,600,488; 5,600,489; 5,600,490; 5,600,491; 5,600,492; 5,600,493; 5,600,494; 5,600,495; 5,600,496; 5,600,497; 5,600,498; 5,600,499; 5,600,500; 5,600,501; 5,600,502; 5,600,503; 5,600,504; 5,600,505; 5,600,506; 5,600,507; 5,600,508; 5,600,509; 5,600,510; 5,600,511; 5,600,512; 5,600,513; 5,600,514; 5,600,515; 5,600,516; 5,600,517; 5,600,518; 5,600,519; 5,600,520; 5,600,521; 5,600,522; 5,600,523; 5,600,524; 5,600,525; 5,600,526; 5,600,527; 5,600,528; 5,600,529; 5,600,530; 5,600,531; 5,600,532; 5,600,533; 5,600,534; 5,600,535; 5,600,536; 5,600,537; 5,600,538; 5,600,539; 5,600,540; 5,600,541; 5,600,542; 5,600,543; 5,600,544; 5,600,545; 5,600,546; 5,600,547; 5,600,548; 5,600,549; 5,600,550; 5,600,551; 5,600,552; 5,600,553; 5,600,554; 5,600,555; 5,600,556; 5,600,557; 5,600,558; 5,600,559; 5,600,560; 5,600,561; 5,600,562; 5,600,563; 5,600,564; 5,600,565; 5,600,566; 5,600,567; 5,600,568; 5,600,569; 5,600,570; 5,600,571; 5,600,572; 5,600,573; 5,600,574; 5,600,575; 5,600,576; 5,600,577; 5,600,578; 5,600,579; 5,600,580; 5,600,581; 5,600,582; 5,600,583; 5,600,584; 5,600,585; 5,600,586; 5,600,587; 5,600,588; 5,600,589; 5,600,590; 5,600,591; 5,600,592; 5,600,593; 5,600,594; 5,600,595; 5,600,596; 5,600,597; 5,600,598; 5,600,599; 5,600,600; 5,600,601; 5,600,602; 5,600,603; 5,600,604; 5,600,605; 5,600,606; 5,600,607; 5,600,608; 5,600,609; 5,600,610; 5,600,611; 5,600,612; 5,600,613; 5,600,614; 5,600,615; 5,600,616; 5,600,617; 5,600,618; 5,600,619; 5,600,620; 5,600,621; 5,600,622; 5,600,623; 5,600,624; 5,600,625; 5,600,626; 5,600,627; 5,600,628; 5,600,629; 5,600,630; 5,600,631; 5,600,632; 5,600,633; 5,600,634; 5,600,635; 5,600,636; 5,600,637; 5,600,638; 5,600,639; 5,600,640; 5,600,641; 5,600,642; 5,600,643; 5,600,644; 5,600,645; 5,600,646; 5,600,647; 5,600,648; 5,600,649; 5,600,650; 5,600,651; 5,600,652; 5,600,653; 5,600,654; 5,600,655; 5,600,656; 5,600,657; 5,600,658; 5,600,659; 5,600,660; 5,600,661; 5,600,662; 5,600,663; 5,600,664; 5,600,665; 5,600,666; 5,600,667; 5,600,668; 5,600,669; 5,600,670; 5,600,671; 5,600,672; 5,600,673; 5,600,674; 5,600,675; 5,600,676; 5,600,677; 5,600,678; 5,600,679; 5,600,680; 5,600,681; 5,600,682; 5,600,683; 5,600,684; 5,600,685; 5,600,686; 5,600,687; 5,600,688; 5,600,689; 5,600,690; 5,600,691; 5,600,692; 5,600,693; 5,600,694; 5,600,695; 5,600,696; 5,600,697; 5,600,698; 5,600,699; 5,600,700; 5,600,701; 5,600,702; 5,600,703; 5,600,704; 5,600,705; 5,600,706; 5,600,707; 5,600,708; 5,600,709; 5,600,710; 5,600,711; 5,600,712; 5,600,713; 5,600,714; 5,600,715; 5,600,716; 5,600,717; 5

2000 MONSANTO TECHNOLOGY AGREEMENT**FARM INFORMATION**

Please complete this section with your farm business information. Your name must be filled in and must match the signature below.

☐ Dr. ☐ Mr. ☐ Mrs. ☐ Ms.

Business Name

Your Name (First/Middle/Last)

Business Address

Business City

State

Zip

Area Code

Business Phone

Area Code

FAX

E-mail Address

What is your
role on the farm?
(Check One)

- ☐ Owner
☐ Owner/Oper.
☐ Operator
☐ Farm Mgr.
☐ Farmer/Dealer
☐ Other

Describe

FORM NUMBER

010129905

CROP INFORMATION FOR THE 2000 GROWING SEASON

Please fill in the planned acres and type of seed you are interested in for the 2000 growing season, so we can keep you updated on important product information. (This section is NOT a purchase commitment or contract.)

TOTAL Crop Acres Planned for 2000
(All Varieties)

TOTAL Planned Technology Acres for 2000

Soybeans _____ acres

Cotton _____ acres

Corn _____ acres

Rice _____ acres

Wheat _____ acres

Sugarbeets _____ acres

C _____ acres

Roundup Ready® Soybeans _____ acres

Bollgard® Cotton _____ acres

Roundup Ready Cotton _____ acres

Bollgard with Roundup Ready Cotton _____ acres

YieldGard® Insect Protected Corn _____ acres

Roundup Ready Corn _____ acres

Roundup Ready Corn with YieldGard _____ acres

Roundup Ready Sugarbeets _____ acres

Roundup Ready Canola _____ acres

PRIMARY AG CHEMICAL RETAILER

Business Name

Area Code

Phone

City

State

CROP CONSULTANT INFORMATION

Business Name

Contact Name (First/Middle/Last)

Mailing Address

City

State

Zip

Area Code

Business Phone

Area Code

FAX

TECHNOLOGY CARDS

Completion and submission of this page, you will be mailed a Technology Card with your name and individual Technology ID number. If more than one individual will be purchasing under this Agreement, you may request additional cards. These cards should be presented when purchasing MONSANTO gene technologies and for redeeming benefits offered under the Technology Value Package.

☐ Please send me _____ additional cards.**SIGNATURE & DATE REQUIRED**

I acknowledge that I have read and understand the terms and conditions of this Agreement and that I agree to them.

Must be signed by the customer listed above.

Date

MONSANTO COPY



2000 MONSANTO TECHNOLOGY AGREEMENT

Effective August 1, 1999 through August 31, 2000

We appreciate your interest in Monsanto's advanced technologies and the exciting benefits they offer. This Monsanto Technology Agreement covers Roundup Ready soybeans, YieldGard® corn, Roundup Ready® corn, Roundup Ready® corn with YieldGard®, Roundup Ready® cotton, Bollgard® cotton, Bollgard® with Roundup Ready® Roundup Ready® sugarbeets and Roundup Ready® canola.

For your convenience, this Agreement remains in effect until either you or Monsanto choose to terminate the Agreement. Once you enroll, information regarding new and existing technologies and any new terms will be mailed to you each year. Additionally, by completing this Agreement, you are automatically enrolled in the Technology Value Package™, designed to bring increased benefits to you.

You Receive:

- Opportunity to purchase and plant seed containing these technologies under this Agreement.
- Opportunity to participate in the Technology Value Package for applicable crop(s).

You Understand:

- These Monsanto gene technologies are protected under U.S. patent law. Monsanto licenses the Grower, under applicable patents¹ owned or licensed by Monsanto, to use these technologies under the conditions listed below. This Agreement only covers the United States, and does not authorize planting of seed in the United States which has been purchased in another country or planting of seed in another country which has been purchased in the United States.
- Regulatory approval of grain/commodities harvested from Roundup Ready corn, Roundup Ready corn with YieldGard, Roundup Ready canola and Roundup Ready sugarbeets is pending in certain export markets, and may not be received before the end of 2000. As a result, the Grower may be restricted from introducing such grain/commodities into channels of trade where the potential for export to such markets exists. The Grower must channel such grain/commodities for feeding or farm, use in domestic feed lots or other uses in domestic markets only. Growers should refer to Monsanto's Technology Use Guide for information on crop stewardship regarding the potential movement of pollen to neighboring crops. For assistance in locating domestic outlets for corn grain/commodities, view the ASTA we at www.astaseed.org or contact Monsanto at 1-800-768-6387.
- The gene technologies referenced in this Agreement can only be used in locations where the products have been approved for use by all required governmental agencies.

You Agree:

- To use the seed containing Monsanto gene technologies solely for planting a single commercial crop.
- To not supply any of this seed to any other person or entity for planting, and to not save any crop produced from this seed for replanting, or supply seed produced from this seed to anyone for replanting.
- To not use this seed or provide it to anyone for crop breeding, research, generation of herbicide registration data or seed production.
- Use of any selective herbicide labeled for the same crop without the Roundup Ready® gene is not restricted by this Agreement. If you use a herbicide over the top of a Roundup Ready® crop that depends on the Roundup Ready gene to be selective, you agree to use only a Roundup Ultra® brand herbicide or only another herbicide brand authorized by Monsanto as specified in Monsanto's Technology Use Guide. **MONSANTO DOES NOT WARRANT THE CROP SAFETY OR PERFORMANCE OF HERBICIDES OTHER THAN MONSANTO BRANDS.**
- To purchase seed containing these gene technologies only from a seed company with required technology license(s) from Monsanto and to pay the applicable Technology Fee for the particular product being purchased.
- To implement an Insect Resistance Management program as specified in the applicable Bollgard cotton and YieldGard corn sections of the Technology Use Guide and to cooperate with Insect Resistance Management programs and research.*

General Conditions:

The Grower's rights may not be transferred to anyone else without written consent of Monsanto. If the Grower's rights are transferred with Monsanto's consent or by operation of law, this Agreement is binding on the person or entity receiving the transferred rights.

If the Grower violates the terms of this Agreement, in addition to other remedies available to the technology provider(s), the Grower's rights under this Agreement will terminate immediately and the Grower forfeits any right to obtain an Agreement in the future and that violation may result in infringement of one or more of the patents that relate to that product. The Grower agrees that the technology provider(s) are entitled to recover their full amount of legal fees and other costs of enforcing this Agreement. If the Agreement is terminated, the Grower will no longer have a right under this Agreement to purchase seed containing these technologies, however, any obligations that arose before termination will continue in effect. In the event that the Grower saves, supplies, sells or acquires seed for planting in violation of this Agreement and license restriction, in addition to other remedies available to the technology provider(s), the Grower agrees that damages will include a claim for liquidated damages which will be based on 120 times the applicable Technology Fee. Grower consents to Monsanto review of Farm Service Agency crop reporting information and dealer/retailer invoices for seed and chemical transactions.

Grower acknowledges that Grower has received a copy of Monsanto's Technology Use Guide and has read and agrees to abide by and be bound by the terms of this Guide. Grower agrees that use of seed containing Monsanto gene technologies is subject to the LIMIT OF WARRANTY AND LIABILITY and all other provisions contained in Monsanto's Technology Use Guide which is incorporated by this reference as part of this Monsanto Technology Agreement.*

Monsanto retains ownership of the licensed genes (for example the Roundup Ready gene), and the gene technologies, and the Grower receives the right to use the licensed genes and technology as specified in this Agreement.

THIS AGREEMENT IS GOVERNED BY THE LAWS OF THE STATE OF MISSOURI AND THE UNITED STATES (OTHER THAN THE CHOICE OF LAW RULES). THE PARTIES CONSENT TO THE EXCLUSIVE JURISDICTION OF THE U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF MISSOURI, EASTERN DIVISION, AND THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS, STATE OF MISSOURI, FOR ALL DISPUTES ARISING OUT OF OR CONNECTED IN ANY WAY WITH THE USE OF THE SEED OR THE TECHNOLOGIES AS PROVIDED THROUGH THIS AGREEMENT OR ITS RELATED PARTS.

Thank you for choosing our advanced technologies. We look forward to working with you in the future.

If you have any questions regarding the technologies from Monsanto, please call the Monsanto Customer Relations Center at: 1-800-ROUNDUP.

PLEASE MAIL THE SIGNED 2000 MONSANTO TECHNOLOGY AGREEMENT TO: Monsanto, P.O. Box 4063, Monticello, MN 55565-9986

* Refer to the applicable section of the Monsanto Technology Use Guide, which is part of this Agreement, for specifics relating to these terms.

¹ The licensed U.S. patents include: for YieldGard® corn - 5,484,956; 5,500,345; 5,357,605; 5,538,877; 5,538,880; 5,359,142; 5,322,938; 5,164,316; 5,196,525; 5,424,412; and 5,424,200; for Roundup Ready® corn - 5,554,798; 4,940,835; 4,535,060; 5,538,877; 5,538,880; 5,094,945; 5,188,642; 5,717,084; and 5,728,925; for Roundup Ready® soybeans - 4,940,835; 5,188,642; 5,352,605; 5,633,435; 5,530,196; 5,717,084; 5,728,925; and 5,804,425; for Roundup Ready® cotton - 5,633,435; 5,352,605; 5,188,642; 4,940,835; 5,717,084; and 5,804,425; for Bollgard® cotton - 5,500,345; 5,424,200; 5,359,142; 5,352,605; 5,322,938; 5,196,525; 5,188,642; 5,164,316; 4,940,835; 5,717,084; 5,728,925; and 5,804,425; for Roundup Ready® canola - 5,378,619; 5,463,175; 5,776,760; 5,627,081; 5,633,435; 4,940,835; 5,188,642; 5,717,084; 5,728,925; and 5,804,425; and for Roundup Ready® sugarbeets - 5,378,619; 5,463,175; 5,776,760; 5,627,081; 5,633,435; 5,164,316; 5,196,525; 5,322,938; 5,359,142; 5,424,200; 5,352,605; 5,530,196; 4,940,835; 5,188,642; 5,717,084; 5,728,925; and 5,804,425.

1999 MONSANTO TECHNOLOGY AGREEMENT

FARM INFORMATION

Please complete this section with your farm business information. Your name must be filled in and must match the signature below.

☐ Dr. ☐ Mr. ☐ Mrs. ☐ Ms.

Your Name (First/Middle/Last)

Farm Business Name

Mailing Address

City

State

Zip

Area Code

Business Phone

Area Code

FAX

What is your role on the farm?
(Check One)

- ☐ Owner
☐ Owner/Oper.
☐ Operator
☐ Farm Mgr.
☐ Other

Describe

E-mail Address

☐ Check here if you are a Farm Seed Dealer.

900643307

CROP INFORMATION FOR THE 1999 GROWING SEASON

Please let us know your planned acres and type of seed you are interested in for the 1999 growing season.
 This section is NOT a purchase commitment or contract.

TOTAL Crop Acres Planned for 1999
 (All Varieties)

Soybeans _____ acres
 Cotton _____ acres
 Corn _____ acres
 Rice _____ acres
 Wheat _____ acres
 Sugarbeets _____ acres
 Canola _____ acres

TOTAL Planned Technology Acres for 1999

Roundup Ready® Soybeans _____ acres
 Bollgard® Cotton _____ acres
 Roundup Ready Cotton _____ acres
 Bollgard with Roundup Ready Cotton _____ acres
 YieldGard® Insect Protected Corn _____ acres
 Roundup Ready Corn _____ acres
 Roundup Ready Sugarbeets _____ acres
 Roundup Ready Canola _____ acres

MONSANTO TECHNOLOGY CENTER/PRIMARY AG CHEMICAL RETAILER

Business Name

Area Code

Phone

City

State

CROP CONSULTANT INFORMATION

Business Name

Contact Name

Mailing Address

City

State

Zip

Area Code

Business Phone

Area Code

FAX

SIGNATURE & DATE REQUIRED

I acknowledge that I have read and understand the terms and conditions of this Agreement and that I agree to them.

Must be signed by the customer listed above.

Date

TECHNOLOGY CARDS

Upon completion and submission of this page, you will be mailed a Technology Card with your name and individual Technology ID number. This card should be presented when purchasing additional MONSANTO gene technologies, and for redeeming benefits offered under the Technology Value Package.

☐ Please send me _____ additional cards.

MONSANTO COPY



1999 MONSANTO TECHNOLOGY AGREEMENT

Effective August 1, 1998 through July 31, 1999

We appreciate your interest in Monsanto's advanced technologies and the exciting benefits they offer. This Monsanto Technology Agreement covers Roundup Ready[®] soybeans, YieldGard[®] corn, Roundup Ready[®] corn, Roundup Ready[®] cotton, Bollgard[®] cotton, Bollgard[®] with Roundup Ready[®] cotton, Roundup Ready[®] sugarbeets[®] and Roundup Ready[®] canola[®].

For your convenience, this Agreement remains in effect until either you or Monsanto choose to terminate the Agreement. Once you enroll, information regarding new and existing technologies and any new terms will be mailed to you each year. Additionally, by completing this Agreement, you are automatically enrolled in the Technology Value Package, designed to bring increased benefits to you.

You Receive:

- Opportunity to purchase and plant seed containing these technologies under this Agreement.
- Opportunity to participate in the Technology Value Package for applicable crop(s).

You Understand:

- These Monsanto gene technologies are protected under U.S. patent law. Monsanto licenses the Grower under applicable patents¹ owned or licensed by Monsanto to use these technologies under the conditions listed below. This Agreement only covers the United States, and does not authorize planting of seed in the United States which has been purchased in another country or planting of seed in another country which has been purchased in the United States.
- Regulatory approval of grain harvested from seed of Roundup Ready corn is pending in certain export markets and may not be received before the end of 1999. As a result, the Grower may be restricted from introducing the grain into channels of trade where the potential for export to those markets exists. In such cases, the Grower must be prepared to feed the grain on-farm, or sell it for use in domestic markets only.
- The gene technologies referenced in this Agreement can only be used in locations where the products have been approved for use by all required governmental agencies.

You Agree:

- To use the seed containing Monsanto gene technologies solely for planting a single commercial crop.
- To not supply any of this seed to any other person or entity for planting, and not to save any crop produced from this seed for replanting, or supply saved seed to anyone for replanting.
- To not use this seed or provide it to anyone for crop breeding, research, generation of herbicide registration data or seed production.
- If you use a herbicide over the top of a Roundup Ready[®] crop that is not selective to the same crop without the Roundup Ready[®] gene, you agree to use only a Roundup[®] brand herbicide or only another herbicide brand authorized by Monsanto as specified in Monsanto's Technology Use Guide. Use of any selective herbicide labeled for the same crop without the Roundup Ready gene is not restricted by this agreement. MONSANTO DOES NOT WARRANT THE CROP SAFETY OR PERFORMANCE OF HERBICIDES OTHER THAN MONSANTO BRANDS.**
- To purchase seed containing these gene technologies only from a seed company licensed under their required technologies from Monsanto and to pay the applicable Technology Fee for the particular product being purchased.
- To implement an Insect Resistance Management program specified in the applicable Bollgard cotton and YieldGard corn sections of the Technology Use Guide and to cooperate with Insect Resistance Management programs and research.**

General Conditions:

The Grower's rights may not be transferred to anyone else without written consent of Monsanto. If the Grower's rights are transferred with Monsanto's consent or by operation of law, this Agreement is binding on the person or entity receiving the transferred rights.

Grower agrees that its use of seed containing Monsanto gene technologies is subject to the provisions contained in Monsanto's Technology Use Guide, including the provisions related to LIMIT OF WARRANTY AND LIABILITY.**

If the Grower violates the terms of this Agreement, in addition to other remedies available to the technology provider(s), the Grower's rights under this Agreement will terminate immediately and the Grower forfeits any right to obtain an Agreement in the future and that violation may result in infringement of one or more of the patents that relate to that product. The Grower agrees that the technology provider(s) are entitled to recover their full amount of legal fees and other costs of enforcing this Agreement. If the Agreement is terminated, the Grower will no longer have a right under this Agreement to purchase seed containing these technologies, however, any obligations that arose before termination will continue in effect. In the event that the Grower saves, supplies, sells or acquires seed for replant in violation of this Agreement and license restriction, in addition to other remedies available to the technology provider(s), the Grower agrees that damages will include a claim for liquidated damages which will be based on 120 times the applicable Technology Fee.

Monsanto retains ownership of the licensed genes (for example the Roundup Ready gene), and the gene technologies, and the Grower receives the right to use the licensed genes and technology as specified in this Agreement.

THIS AGREEMENT IS GOVERNED BY THE LAWS OF THE STATE OF MISSOURI AND THE UNITED STATES (OTHER THAN THE CHOICE OF LAW RULES). THE PARTIES CONSENT TO THE EXCLUSIVE JURISDICTION OF THE U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF MISSOURI, EASTERN DIVISION, AND THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS, STATE OF MISSOURI, FOR ALL DISPUTES ARISING UNDER THIS AGREEMENT.

Thank you for choosing our advanced technologies. We look forward to working with you in the future.

If you have any questions regarding the technologies from Monsanto, please call the Monsanto Customer Relations Center at: 1-800-ROUNDUP or 1-800-523-2333 (Southern States Only).

PLEASE MAIL THE SIGNED 1999 MONSANTO TECHNOLOGY AGREEMENT TO: Monsanto, P.O. Box 4063, Monticello, MN 55665-9986.

- * The licenses for Roundup Ready sugarbeets and Roundup Ready canola are effective only after those crops have been approved for sale by the required governmental agencies.
- ** Refer to the applicable section of the Monsanto Technology Use Guide, which is part of this Agreement, for specifics relating to these terms.

¹ The licensed U.S. patents include: for YieldGard[®] corn - 5,484,954; 5,500,365; 5,352,605; 5,538,877; 5,538,880; 5,359,142; 5,322,938; 5,164,316; 5,196,525; 5,424,412; and 5,424,200; for Roundup Ready[®] corn - 5,554,798; 4,940,835; 4,535,040; 5,538,877; 5,538,880; 5,094,945; 5,188,642; 5,717,084; and 5,728,925; for Roundup Ready[®] soybeans - 4,940,835; 5,188,642; 5,352,605; 5,633,435; 5,530,196; 5,717,084; 5,728,925; and 5,804,425; for Roundup Ready[®] cotton - 5,633,435; 5,352,605; 5,188,642; 4,940,835; 5,717,084; 5,728,925; and 5,804,425; for Bollgard[®] cotton - 5,500,365; 5,424,200; 5,359,142; 5,352,605; 5,322,938; 5,196,525; 5,188,642; 5,164,316; 4,940,835; 5,717,084; 5,728,925; and 5,804,425; for Roundup Ready[®] canola - 5,378,619; 5,463,175; 5,776,760; 5,627,061; 5,633,435; 4,940,835; 5,188,642; 5,717,084; 5,728,925; and 5,804,425; and for Roundup Ready[®] sugarbeets - 5,378,619; 5,463,175; 5,776,760; 5,627,061; 5,633,435; 5,164,316; 5,196,525; 5,322,938; 5,359,142; 5,424,200; 5,352,605; 5,530,196; 4,940,835; 5,188,642; 5,717,084; 5,728,925; and 5,804,425.

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MONSANTO TECHNOLOGY AGREEMENT

FARM INFORMATION

Please complete this section with your farm business information. Your name must be filled in and must match the signature below. If you have questions, please call Monsanto at 1-800-523-2333.

☐ Dr. ☐ Mr. ☐ Mrs. ☐ Ms.

Your Name (First/Middle/Last)

Farm Business Name

Mailing Address

City

Area Code Business Phone Area Code FAX

E-Mail Address

What is your role on the farm?
(Check One)

- ☐ Owner
☐ Owner/Oper.
☐ Operator
☐ Farm Mgr.
☐ Other:

CROP INFORMATION FOR THE 1998 GROWING SEASON

Please check (X) each type of seed you are interested in for the 1998 growing season, and fill in the planned acres. This section is NOT a purchase commitment or contract.

	acres	TOTAL Crop Acres Planned for 1998 (All Varieties)	ConTill Acres
<input type="checkbox"/> Roundup Ready® Soybeans		Soybeans	
<input type="checkbox"/> Bollgard® Cotton		Corn	
<input type="checkbox"/> Roundup Ready Cotton		Cotton	
<input type="checkbox"/> Bollgard with Roundup Ready Cotton			
<input type="checkbox"/> YieldGard® Insect Protected Corn			
<input type="checkbox"/> Roundup Ready Corn			

MONSANTO TECHNOLOGY CENTER PRIMARY AG CHEMICAL RETAILER

Business Name

Area Code Phone City State

CROP CONSULTANT INFORMATION

Business Name

Contact Name

Mailing Address

City

Area Code Business Phone Area Code FAX

SIGNATURE & DATE REQUIRED

I acknowledge that I have read and understand the terms and conditions of this Agreement and that I agree to them.

Signature must match customer name listed above. Date

TECHNOLOGY CARDS

Upon completion and submission of this page, you will be mailed a Technology Card with your name and individual Technology ID number. This card should be presented when purchasing additional MONSANTO gene technologies, and for redeeming benefits offered under the Technology Value Package.

☐ Please send me additional cards.

MONSANTO COPY

MONSANTO TECHNOLOGY AGREEMENT

We appreciate your interest in Monsanto's advanced technologies and the exciting benefits they offer. This Monsanto Technology Agreement covers Roundup Ready® cotton, Bollgard® cotton, Bollgard® with Roundup Ready® cotton, Roundup Ready® soybeans, YieldGuard® corn and Roundup Ready® corn.

For your convenience, this Agreement remains in effect until either you or Monsanto choose to terminate the Agreement. Once you enroll, information regarding new and existing technologies and any new terms will be mailed to you each year. Additionally, by completing this Agreement, you are automatically enrolled in the Technology Value Package*, designed to bring increased benefits to you.

You Receive:

- Opportunity to purchase and plant seed containing these technologies under this long-term Agreement.
- Opportunity to participate in the Technology Value Package for applicable crop(s).

You Understand:

- These Monsanto gene technologies are protected under U.S. patent law. Monsanto licenses the Grower under applicable patents¹ owned or licensed by Monsanto to use these technologies under the conditions listed below.
- Regulatory approval of grain harvested from seed of Roundup Ready corn is pending in certain export markets and may not be received before the 1998 harvest. As a result, the Grower may be restricted from introducing the grain into channels of trade where the potential for export exists. In such cases, the Grower should be prepared to feed the grain on-farm, or sell it for use in domestic markets only.
- YieldGuard and Bollgard gene technologies can only be used in locations where the products have been approved for use by all required governmental agencies.

You Agree:

- To use the seed containing Monsanto gene technologies for planting a commercial crop only in a single season.
- To not supply any of this seed to any other person or entity for planting, and to not save any crop produced from this seed for replanting, or supply saved seed to anyone for replanting.
- To not use this seed or provide it to anyone for crop breeding, research, generation of herbicide registration data or seed production.
- If a herbicide containing the same active ingredient as Roundup Ultra® herbicide (or one with a similar mode of action) is used over the top of Roundup Ready crops, you agree to use only Roundup® branded herbicide.
- To pay the applicable Technology Fee for the particular product being purchased.
- To implement an Insect Resistance Management Program specified in the applicable Bollgard cotton and YieldGuard corn sections of the Product Use Guide and to cooperate with Insect Resistance Management Programs and research.*

COTTON ONLY

- To provide, upon request, the locations of all fields planted with Bollgard cotton and to cooperate fully with any inspections.
- To allow Monsanto to inspect all of your fields planted with Bollgard cotton to ensure that you have followed an approved Insect Resistance Management Program. All inspections will be performed at a reasonable time arranged with you in their presence, unless you do not wish to be present. Refer to the Bollgard cotton section of the Product Use Guide for specific instructions regarding refuge requirements.[†]
- If Monsanto reasonably believes that you have planted saved cottonseed containing a Monsanto genetic trait, Monsanto will request invoices or otherwise confirm that fields in question have been planted with newly purchased seed. If this information is not provided within 30 days, Monsanto may inspect and test all of your cotton fields to determine if saved cottonseed has been replanted. Any inspections will be performed at a reasonable time arranged with you in their presence, unless you do not wish to be present.
- Any technology fees not paid by the net due date will be assessed a late fee of 18% per year (not to exceed the maximum rate allowed by law) on the unpaid principal balance.

YieldGuard ONLY

- See the YieldGuard corn section of the Product Use Guide for complete details of the required Insect Resistance Management Program.*

General Conditions:

The Grower's rights may not be transferred to anyone else without written consent of Monsanto. If the Grower's rights are transferred with Monsanto's consent or by operation of law, this Agreement is binding on the person or entity receiving the transferred rights.

If the Grower violates the terms of this Agreement, in addition to other remedies available to the technology provider(s), the Grower's rights under this Agreement will terminate immediately and the Grower forfeits any right to obtain an Agreement in the future. The Grower agrees that the technology provider(s) are entitled to recover their full amount of legal fees and other costs of enforcing this Agreement. If the Agreement is terminated, the Grower will no longer have a right under this Agreement to purchase seed containing these technologies; however, any obligations that arose before termination will continue in effect. In the event that the Grower saves, supplies, sells or acquires seed for replant in violation of this Agreement and license restriction, in addition to other remedies available to the technology provider(s), the Grower agrees that damages will include a claim for liquidated damages, which will be based on 120 times the applicable Technology Fee.

*Refer to the applicable section of the Product Use Guide, which is part of this Agreement, for specifics relating to these terms.

THIS AGREEMENT IS GOVERNED BY THE LAWS OF THE STATE OF MISSOURI AND THE UNITED STATES (OTHER THAN THE CHOICE OF LAW RULES). THE PARTIES CONSENT TO THE EXCLUSIVE JURISDICTION OF THE U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF MISSOURI, EASTERN DIVISION, AND THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS, STATE OF MISSOURI, FOR ALL DISPUTES ARISING UNDER THIS AGREEMENT.

¹The licensed U.S. patents include: for YieldGuard® corn - 5,484,956; 5,500,365; 5,352,605; 5,538,877; 5,538,880; 5,359,142; 5,322,938; 5,164,316; 5,196,525; 5,424,412 and 5,424,200; for Roundup Ready® corn - 5,633,448; 5,554,798; 4,535,060; 4,940,835; 5,538,877; 5,538,880; 5,510,471; 5,094,945 and 5,188,642; for Roundup Ready® soybeans - 4,535,060; 4,940,835; 5,188,642; 5,352,605; 5,633,435 and 5,530,196; for Roundup Ready® cotton - 5,633,435; 5,352,605; 5,188,642; 4,940,835 and 4,535,060; for Bollgard® cotton - 5,500,365; 5,424,200; 5,359,142; 5,352,605; 5,322,938; 5,196,525 and 5,164,316; and for Bollgard® with Roundup Ready® cotton - 5,633,435; 5,500,365; 5,424,200; 5,359,142; 5,352,605; 5,322,938; 5,196,525; 5,188,642; 5,164,316; 4,940,835 and 4,535,060.

Thank you for choosing our advanced technologies. We look forward to working with you in the future.
If you have any questions regarding the technologies from Monsanto,
please call the Monsanto Customer Relations Center at:

1-800-523-2333

ALWAYS READ AND FOLLOW LABEL DIRECTIONS. Roundup®, Roundup Ultra®, Roundup Ready®, Bollgard®, YieldGuard®, and Technology Value Package® are trademarks of Monsanto Company.
©Monsanto Company 1997 10/97 1998

EXHIBIT D

2001 MONSANTO TECHNOLOGY AGREEMENT

If the information below is not correct, please cross out and clearly print your correct information in the space provided to the right.

FARM INFORMATION

8873678
Dance Farms
Mr Clifford F Dance Jr
201 S Central Ave
Winona
MS 38967-2607
662-283-4859

Please complete this section with your farm business information. The individuals and entities bound by the terms of this Agreement shall include the farm business listed below as well as all individuals or entities affiliated with, related to or having an ownership in such farm business. Your name must be filled in and must match the signature below.

☐ Dr ☐ Mr ☐ Mrs ☐ Ms

What is your role on the farm?
(Check One)

- ☐ Owner
☐ Owner/Oper
☐ Operator
☐ Farm Mgr
☐ Farmer/Dealer
☐ Other

Farm Business Name

Your Name (First/Middle/Last)

Business Address

Business City State Zip

Business Phone Fax

E-Mail Address

Describe

FORM NUMBER
020497792

PRIMARY AG CHEMICAL RETAILER

FARMERS SUPPLY CO-OP
PO BOX 24997007
GREENWOOD
MS 38930
662-453-6341

Business Name

Business City State Zip

Business Phone Fax

Retailer Use Only

☒ Provided Signee with a Monsanto Technology Use Guide

Retailer's Signature

- ☐ No Signature Because:
☐ Deceased
☐ Would Not Sign
☐ No Longer Farming
☐ Other

Describe

PRIMARY SEED DEALER

Business Name

Business City State Zip

Business Phone Fax

CROP CONSULTANT INFORMATION

Business Name

Contact Name (First/Middle/Last)

State Zip

Fax



PLEASE SEND ME ADDITIONAL TECHNOLOGY CARDS

Upon completion and submission of this page, you will receive a Technology Card with your name and individual Technology ID number. If more than one individual will be purchasing under this Agreement, you may request additional cards. These cards should be presented when purchasing MONSANTO gene technologies and for redeeming benefits offered under Roundup Rewards

☐ Please send me additional cards.

SIGNATURE & DATE REQUIRED

I acknowledge that I have read and understand the terms and conditions of this Agreement, including the Monsanto Technology Use Guide and the provisions related to the Disclaimer of Warranties and Exclusive Remedy. If you do not agree to these terms, you should return the unopened bags of seed to your dealer. The undersigned acknowledges that he/she has the authority to bind the individual and/or entities subject to this Agreement.

Must be signed by the customer listed above.

Date

MONSANTO COPY

NOTHING BUT THE TRUTH

☐ Dr. ☒ Mr. ☐ Mrs. ☐ Ms.

What is your role on the farm?
(Richard One)

☐ Owner
☒ Owner/Oper.
☐ Operator
☐ Farm Mgt.
☐ Other:

CHARRLES MAC WADIE									
Your Name (Print/Last)									
WADIE CHARLES									
Firm Business Name									
3215 LARKFIELD DR									
Mailing Address									
1504 W 15th St									
City		1504		St		1504		St	
Area Code		214		Area Code		214		Area Code	
Business Phone		214		Business Phone		214		Business Phone	
Fax		214		Fax		214		Fax	
Zip		75206		Zip		75206		Zip	
State		TX		State		TX		State	
FAX		214		FAX		214		FAX	

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NEWS IS UNBROKEN UNTIL THE SOLVING OF THE

Please check (x) each type of seed you are interested in for the 1993 growing season, and fill in the planned acres. This section is NOT a purchase commitment or contract.

	<u>0</u> acres	TOTAL Crop Acres Planned for 1988 <i>(All Veneties)</i>	Cont'd. Acres
<input type="checkbox"/> Roundup Ready® Soybeans	acres	Soybeans	<u>5</u> <u>0</u> <u>0</u> acres
<input type="checkbox"/> Bullgard® Cotton	<u>7</u> <u>0</u> <u>0</u> acres	Corn	<u>3</u> <u>7</u> <u>0</u> acres
<input type="checkbox"/> Roundup Ready Cotton	acres	Cotton	<u>7</u> <u>0</u> <u>0</u> acres
<input type="checkbox"/> Bullgard with Roundup Ready Cotton	acres		
<input type="checkbox"/> YieldGuard® Insect Protected Corn	acres		
<input type="checkbox"/> Roundup Ready Corn	acres		

UNIVERSITY OF TECHNOLOGY CENTER FOR CRYSTALLINE POLYMER

Business Name	Area Code	Phone	City	State
TRIUMPH PICTA	616	235-5533	TICHOCA	MS

NEUHAUS COMPANY, INC.

[illegible]

THE NEW YORK PUBLIC LIBRARY

I acknowledge that I have read and understand the terms and conditions of this Agreement and that I agree to them.

Upon completion and submission of this page, you will be mailed a Technology Card with your name and individual Technology ID number. This card should be presented when purchasing additional MONSANTO game technologies, and for subscription benefits offered under the Technology Value Package.

Additional cards.

Signature must match customer name listed above. Charles Mac Webb 4-15-98
Date

04/17/98 FRI 13:46 ITX/RX NO 58631 0004

8906

2001 MONSANTO TECHNOLOGY AGREEMENT

If this information below is not correct, please correct and clearly print your correct information in the space provided to the right.

Please complete this section with your firm business information. The individuals and entities bound by the terms of this Agreement shall include the firm business listed below as well as all individuals or entities affiliated with, related to or having an ownership in such firm business. Your name must be filled in and must match the signature below.

☐ Dr. ☒ Mr. ☐ Ms. ☐ Mx.

WADE FARMS

Firm Business Name: **WADE FARMS**

Your Name (First/Initial/Last): **Charles M. Wade**

Business Address: **511 Lawrenceville Drive**

Business City: **ST. LOUIS, MO** State: **MO** Zip: **63117**

Business Phone: **(636) 235-5261** Fax: **(636) 235-5261**

E-Mail Address: _____

What is your role on the farm? (Check One)

☐ Owner of Owner/Operator

☐ Operator

☐ Farm Mgr.

☐ Farmer/Dealer

☐ Other

Describe: _____


FORM MONSANTO 02590272

UAP - MIDSWAT

Business Name: **UAP - MIDSWAT**

Business City: **ST. LOUIS, MO** State: **MO** Zip: **63117**

Business Phone: _____ Fax: _____

Barcode: 

Register This Only

☒ I provided signature with acknowledgment including my name.

☐ No signature required.

☐ Deceased

☐ Would Not Sign

☐ No Longer Farming

☐ Other

UAP - MIDSWAT

Business Name: _____

Business City: _____ State: _____ Zip: _____

Business Phone: _____ Fax: _____

Business Name: _____

Contact Name (First/Initial/Last): _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Business Phone: _____ Fax: _____

Upon completion and submission of this page, you will receive a Technology Card with your name and Individual Technology ID number. If more than one individual will be purchasing under this Agreement, you may request additional cards. These cards should be presented when purchasing MONSANTO gene technologies and for redeeming benefits offered under Roundup Rewards.

☐ Please send me _____ additional cards.

I acknowledge that I have read and understand the terms and conditions of this Agreement, including the Monsanto Technology Use Guide and the provisions related to the Disclosure of Vermines and Exclusive Remedy. If you do not agree to these terms, you should return the unopened bags of seed to your dealer. The undersigned acknowledge that he/she has the authority to bind the individual and/or entities subject to this Agreement.

CH. WADE 7-28-11

Must be signed by the individual listed above. Date

MONSANTO COPY

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MONSANTO TECHNOLOGY AGREEMENT

FARM INFORMATION

If blank, or if changes are required, please complete this section with your farm business information. Your name must be filled in and must match the signature below. If you have questions, please call Monsanto at 1-800-523-2333.

What is your
role on the farm?
(Check One)
☐ Owner
☐ Owner/Operator
☐ Operator
☐ Farm Mgr.
☐ Other:

Area Code 610 Business Phone 453-4091 Area Code FAX

E-Mail Address

CROP INFORMATION FOR THE 1998 GROWING SEASON

Please check (x) each type of seed you are interested in for the 1998 growing season, and fill in the planned acres. This section is NOT a purchase commitment or contract.

	Roundup Ready® Soybeans	Roundup Ready® Cotton	Roundup Ready Cotton	Roundup Ready Cotton	YieldGard® Insect Protected Corn	Roundup Ready Corn	TOTAL Crop Acres Planned for 1998 (All Varieties)	Com Till Acres
<input type="checkbox"/> Roundup Ready® Soybeans	<u>1300</u> acres							
<input type="checkbox"/> Bollgard® Cotton		<u>1620</u> acres						
<input type="checkbox"/> Roundup Ready Cotton								
<input type="checkbox"/> Bollgard with Roundup Ready Cotton								
<input type="checkbox"/> YieldGard® Insect Protected Corn								
<input type="checkbox"/> Roundup Ready Corn								

MONSANTO TECHNOLOGY CENTER PRIMARY AG CHEMICAL RETAILER

Business Name FARMER'S SUPPLY CO. OPERATIVE State MS
Area Code 610 Phone 453-6341 City GREENWOOD

CROP CONSULTANT INFORMATION

Business Name BIOVITA AG State MS
Contact Name DIANNE M. S. BIOVITA State MS
Mailing Address 1111 MARKET ST. CIVIL State MS Zip 39144
City Area Code Business Phone FAX

SIGNATURE & DATE REQUIRED

I acknowledge that I have read and understand the terms and conditions of this Agreement and that I agree to them.

Signature Cheryl R. Hittinger Date 2-2-98
Signature must match customer name typed above.

TECHNOLOGY CARDS

Upon completion and submission of this page, you will be mailed a Technology Card with your name and individual Technology ID number. This card should be presented when purchasing additional MONSANTO gene technologies, and for receiving benefits offered under the Technology Value Package.
☐ Please send me additional cards.

MONSANTO COPY

MONSANTO TECHNOLOGY AGREEMENT

5574828

FARM INFORMATION

Please complete this section with your farm business information. Your name must be filled in and must match the signature below. If you have questions, please call Monsanto at 1-800-768-6387.

☐ Dr. ☐ Mr. ☐ Mrs. ☐ Ms.

NEIL WILLIAM PULLEN

Your Name (First/Middle/Last)

PULLEN SEEDS SOIL

Farm Business Name

2971 180TH STREET

Mailing Address

SAC CITY

City

712 662 4669

Area Code

Business Phone

Area Code

State

Zip

FAX

What is your role on the farm?
(Check One)

☒ Owner

☐ Owner/Oper.

☐ Operator

☒ Farm Mgr.

☐ Other:

E-Mail Address

CROP INFORMATION FOR THE 1998 GROWING SEASON

Please enter your total planned acres for 1998.
This section is NOT a purchase commitment or contract.

TOTAL Crop Acres Planned for 1998 (All Varieties)

Soybeans Corn Cotton

MONSANTO TECHNOLOGY CENTER PRIMARY AG CHEMICAL RETAILER

FC

Business Name

712 273 5469 EARLY

Area Code

Phone

City

State

SIGNATURE & DATE REQUIRED

I acknowledge that I have read and understand the terms and conditions of this Agreement and that I agree to them.

Neil William Pullen

Signature must match customer name listed above

3/10/98

Date

TECHNOLOGY CARDS

Upon completion and submission of this page, you will be mailed a Technology Card with your name and individual Technology ID number. This card should be presented when purchasing additional MONSANTO gene technologies, and for redeeming benefits offered under the Technology Value Package.

☐ Please send me _____ additional cards.



L0192281

JUL 9 1998

EXHIBIT E

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MONSANTO CO. et al.,)	
)	
Plaintiffs,)	
)	
E.I. DUPONT DE NEMOURS & CO., et al.)	
)	
Intervenor Plaintiffs,)	Case No. 4:04CV00708 ERW
)	
vs.)	
)	
BAUMGARDNER, ET AL.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before the Court upon Plaintiffs Monsanto Company and Monsanto Technology, LLC's Motion for Partial Summary Judgment [doc. #31],¹ Defendant Farmers' Cross Motion for Summary Judgment Against Plaintiff Monsanto [doc. #63], and Defendant Farmers' Cross Motion for Summary Judgment Against Intervenor [doc. #66]. A hearing was held on February 9, 2005, and the Court heard arguments from all parties on the Motions.

¹ Intervenor E.I. DuPont de Nemours and Company and Pioneer Hi-Bred International adopted Monsanto's Complaint, and have joined Monsanto's Motion for Partial Summary Judgment.

If Grower violates the terms of this Agreement, in addition to other remedies, Grower's rights pursuant to this Agreement will terminate immediately, and Grower and any entity receiving Seed from Grower are precluded from obtaining an Agreement or otherwise acquiring [sic] Seed of any brand in the future, and Grower's violation may result in infringement of one or more of the patents. Grower agrees to pay Monsanto and the licensed Monsanto Technology provider(s) their attorneys' fees and costs of enforcing this Agreement. If the Agreement is terminated, Grower will no longer have a right to purchase or use Seed containing Monsanto Technologies. Any obligations that arose before termination will continue in effect. In the event that Grower saves and uses, supplies, sells or acquires Seed for planting in violation of this Agreement, Grower will be liable to Monsanto for patent infringement.¹⁰

Pl. Ex. 8 at 4. According to the Complaint, "[b]y filing the State Court Actions, the Patent Defendants violated the Patent License Agreement, thereby terminating their licenses to use Monsanto's Roundup Ready and YieldGard seed technology," which in turn took away the Patent Defendant Farmers' right to use the technology. Compl. ¶ 61. Thus, assuming *arguendo* that the

¹⁰ Exhibits 2 through 8, consisting of form contracts for the year 1998 through the year 2004, each contain the following clause, or a clause substantially similar: "For your convenience, this Agreement remains in effect until either you or Monsanto choose to terminate the Agreement. Once you enroll, information regarding new and existing technologies and any new terms will be mailed to you each year." The general subject matter of each form contract is the same; however, the specific language and placement of the terms vary and appear to grow more detailed with each successive year.

When each of the Farmers signed its respective Technology Agreement, each agreed that it would be annually re-enrolled in the licensing program unless it or Monsanto chose otherwise. In the Complaint, Monsanto provides an example of how this works: "By their terms, the Patent License Agreements for the years 1998 through 2004 remain in force and effect until terminated either by the purchaser or by Monsanto. Therefore, unless terminated by one of the parties, a 1998 Patent License Agreement between a Defendant and Monsanto, for example, would remain operative today." Compl. ¶ 42. Moreover, by re-enrolling in the licensing program, each Farmer agreed to be bound by any new terms subsequently mailed to it. At the time that they filed the State Court Actions, each Farmer had signed an Agreement that, according to the face of the Agreement itself, would remain in effect until terminated by either the Farmer or Monsanto. The State Court Actions were filed in 2004, and this is the year of the alleged breach of contract by the Farmers. Therefore, the Court's breach of contract analysis is properly focused on the text of the 2004 Agreement, the terms of which were the ones applicable to all of the Farmers at the time of the alleged breach. In any event, a substantially similar version of the Remedies Clause appears in each year's form contract.

EXHIBIT F

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

FILED

SEP 14 PM 4:04
U.S. DISTRICT COURT
SOUTHERN DISTRICT IL
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RR #1, 4280 Hwy. 77
Staples, Ontario
N0P 2J0
Canada

on behalf of themselves and
all others similarly situated,

Plaintiffs,

v.

MONSANTO COMPANY
800 North Lindbergh Boulevard
St. Louis, Missouri 63617

Defendant.

Civil No. 00-4034-JL

ORIGINAL CLASS ACTION
COMPLAINT

(JURY TRIAL DEMANDED)

seed, thus assuring the cartel members a virtually limitless stream of excessive "technology fees" will be extracted from farmers.

79. Moreover, the Technology User Agreement mandates that "if a [sic] herbicide containing the same active ingredient as Roundup Ultra herbicide (or one with a similar mode of action) is used over the top of Roundup Ready crops, you [the farmer] agree to use only Roundup branded herbicide." Thus, a farmer who buys Roundup Ready seeds must purchase Roundup from Monsanto at whatever price Monsanto decides to charge.

80. With its Roundup patents about to expire, Monsanto has recently licensed to other members of the cartel the right to sell generic versions of Roundup for use with Roundup Ready seeds. The other cartel members so licensed thus have both the incentive and the ability to extract supra-competitive herbicide profits from farmers as they have already done for GM seeds.

iv. OTHER ANTI-COMPETITIVE CONDUCT IN FURTHERANCE OF MONSANTO'S SCHEME.

a. INTERFERENCE WITH THE NON-GM CORN AND SOYBEAN SEED MARKETS.

81. Upon information and belief, Monsanto's cartel has manipulated the non-GM seed market in furtherance of its scheme to monopolize the GM corn and soybean seed markets. Monsanto and its co-conspirators have jointly manipulated the non-GM market at least by: 1) restricting research and development into improved non-GM seeds, both internally and by exercising control over research at the land grant universities; and 2) restricting the availability of non-GM seeds in the marketplace, including but not limited to purchasing non-GM seed companies for the purpose of limiting their activity in the marketplace.

1. INFLUENCE OVER LAND GRANT UNIVERSITIES.

EXHIBIT G

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

AMERICAN SEED COMPANY, INC.,)	
et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civ. No. 05-535-SLR
)	
MONSANTO COMPANY,)	
)	
Defendant.)	

O R D E R

At Wilmington this 5th day of December, 2005, having reviewed defendant's motion to transfer and the papers filed in connection therewith;

IT IS ORDERED that said motion (D.I. 25) is denied, for the reasons that follow:

1. **Background.** In April 2005, defendant Monsanto Company filed a complaint against plaintiff American Seed Co., Inc. in the United States District Court for the Eastern District of Missouri. Monsanto Company and Monsanto Technology LLC v. American Seed Company, Inc., Cause No. 4:05CV00554ERW ("the Missouri action"). In the Missouri action, Monsanto asserted that American Seed: (a) failed to submit timely sales reports to Monsanto under certain license agreements (breach of contract claim); and (b) sold seed including Monsanto traits after termination of the license agreements (patent, trademark, Lanham

Act, and unjust enrichment claims). In May 2005, American Seed answered and counterclaimed, asserting, inter alia, that the agreements at issue were unconscionable.

2. In July 2005, American Seed initiated the instant litigation by filing a class action antitrust complaint against Monsanto. In its complaint, American Seed generally alleges that Monsanto has unlawfully maintained monopolies "to deny Monsanto's actual and potential competitors (a) access to foundation seed companies and others needed for the creation or manufacture of competitive corn seed with the competitors' biotechnological traits; and (b) the distribution these Monsanto competitors require to market their biotechnological corn seed. [Monsanto's] agreements impose massive financial penalties on seed companies unless a very high percentage of seeds they sell contain Monsanto traits." (D.I. 1, ¶ 3) More specifically, American Seed asserts that Monsanto has used exclusive dealing contracts and bundling agreements to exclude competitors, particularly Syngenta Seeds, Inc. (D.I. 1, ¶¶ 80-95)

3. Pending in this court as of July 2004 was a suit filed by Syngenta Seeds against Monsanto. Syngenta Seeds, Inc. v. Monsanto Co., Civ. No. 04-908-SLR (the "Syngenta action"). Syngenta is Monsanto's leading competitor in biotechnology corn seed. In its suit, Syngenta alleges that Monsanto has monopolized (and attempted to monopolize) markets for particular

biotechnology traits in corn. Like American Seed, Syngenta alleges that Monsanto has used exclusive dealing contracts and bundling agreements to exclude competitors. Both Syngenta and American Seed have asserted that Monsanto has pressured customers (e.g., foundation seed companies) not to deal with Syngenta.

4. **Standard of Review.** Under 28 U.S.C. § 1404(a), a district court may transfer any civil action to any other district where the action might have been brought for the convenience of parties and witnesses and in the interests of justice. Congress intended through § 1404 to place discretion in the district court to adjudicate motions to transfer according to an individualized, case-by-case consideration of convenience and the interests of justice. Stewart Org., Inc. v. Ricoh Corp., 487 U.S. 22, 29 (1988); Affymetrix, Inc. v. Synteni, Inc., 28 F. Supp.2d 192, 208 (D. Del. 1998).

5. The burden of establishing the need to transfer rests with the movant "to establish that the balance of convenience of the parties and witnesses strongly favors the defendants." Bergman v. Brainin, 512 F. Supp. 972, 973 (D. Del. 1981) (citing Shutte v. Armco Steel Corp., 431 F.2d 22, 25 (3d Cir. 1970)). "Unless the balance is strongly in favor of a transfer, the plaintiff's choice of forum should prevail". ADE Corp. v. KLA-Tencor Corp., 138 F. Supp.2d 565, 567 (D. Del. 2001); Shutte, 431 F.2d at 25.

6. **Discussion.** Monsanto moves to transfer this lawsuit to the United States District Court for the Eastern District of Missouri, arguing that American Seed has waived any objections to such a transfer by virtue of a forum selection clause contained in the now terminated Monsanto license agreements. Monsanto further argues that American Seed's antitrust allegations constitute compulsory counterclaims in the Missouri action.

7. **Forum selection clause.** The forum selection clause at issue provides as follows:

IT IS THE INTENTION OF THE PARTIES HERETO THAT ALL QUESTIONS WITH RESPECT TO THE CONSTRUCTION OF THIS AGREEMENT AND THE RIGHTS AND LIABILITIES OF THE PARTIES HERETO SHALL BE DETERMINED IN ACCORDANCE WITH THE LAWS OF THE STATE OF MISSOURI APPLICABLE TO BUSINESS ARRANGEMENTS ENTERED INTO AND PERFORMED ENTIRELY WITHIN THE STATE OF MISSOURI. THE PARTIES HERETO IRREVOCABLY (A) SUBMIT TO THE EXCLUSIVE PERSONAL JURISDICTION OF ANY STATE OR FEDERAL COURT IN THE STATE OF MISSOURI IN ANY SUIT, ACTION OR OTHER LEGAL PROCEEDING RELATING TO THIS AGREEMENT; (B) AGREE THAT ALL CLAIMS IN RESPECT OF ANY SUCH SUIT, ACTION OR OTHER LEGAL PROCEEDING MAY BE HEARD AND DETERMINED IN, AND ENFORCED IN AND BY, ANY SUCH COURT; AND C) WAIVE ANY OBJECTION THAT THEY MAY NOW OR HEREAFTER HAVE TO VENUE IN ANY SUCH COURT OR THAT SUCH COURT IS AN INCONVENIENT FORUM.

(D.I. 27, exs. A-C at ¶ 11.08; ex. D at ¶ 8.08) (capitalization in originals)

8. I conclude that the above recited forum selection clause does not mandate that American Seeds' antitrust claims must be heard in Missouri. My understanding of the language is simply that all claims raised in any suit, action or other legal

proceeding relating to a Monsanto agreement¹ may be heard and determined by a state or federal court in Missouri; if such a suit is brought in a Missouri court, the parties may not object to such suit based on lack of personal jurisdiction or move to transfer based on forum non conveniens.

9. **Compulsory counterclaim.** A counterclaim is considered to be compulsory if "it arises out of the transaction or occurrence that is the subject matter of the opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction." Fed. R. Civ. P. 13(a). "For a claim to qualify as a compulsory counterclaim, there need not be precise identity of issues and facts between the claim and the counterclaim; rather, the relevant inquiry is whether the counterclaim 'bears a logical relationship to an opposing party's claim.'" Transamerica Occidental Life Ins. Co. v. Aviation Office of America, Inc., 292 F.3d 384, 389 (3d Cir. 2002). Put another way, "a counterclaim is logically related to the opposing party's claim where separate trials on each of their respective claims would involve a substantial duplication of effort and time by the parties and the courts." Great Lakes Rubber Corp. V. Herbert Cooper Co., 286 F.2d 631, 634 (3d Cir. 1961).

¹Of course, there is the further question of whether American Seed's antitrust claims "relate" to a Monsanto agreement.

10. The question, as framed by the papers, is whether the interests of justice are best served by trying American Seed's antitrust claims with the license dispute being litigated in the Missouri action or in conjunction with the antitrust claims being litigated in the Syngenta action. I conclude that the broad issues at stake in the instant antitrust case are more akin to the Syngenta action than the Missouri action. Therefore, Monsanto's motion to transfer is denied, without prejudice to renew if it becomes apparent through further discovery and other pretrial proceedings that the interests of justice warrant a transfer to Missouri.


United States District Judge